



UNIVERSITY OF CALIFORNIA

LOS ANGELES
LIBRARY



CORPORATION COMMISSION LAWS

OF

OKLAHOMA

1917

BEING A COMPILATION OF LAWS RELATING TO THE CORPORATION COMMISSION AND ITS JURISDICTION, PUBLIC UTILITIES, PUBLIC SERVICE CORPORATIONS, ETC., INCLUDING PROVISIONS OF THE CONSTITUTION, REVISED LAWS, 1910; SESSION LAWS 1910-11, 1913, 1915, 1916 AND 1917, WITH ANNOTATIONS THERETO.

UNIVERSITY OF CALIFORNIA
LIBRARY

Compiled by

PAUL A. WALKER

Legal Department of the Corporation Commission.

To be Cited Corporation Commission Laws, 1917.



Copyright, 1918,
By Corporation Commission
of Oklahoma

FILED IN VOLUME
103, 1918, 80, 14

HI
05

max Thelma
Lips 1927
10 24

**CORPORATION COMMISSION
OF OKLAHOMA**

J. E. LOVE, Chairman
W. D. HUMPHREY CAMPBELL RUSSELL
J. H. HYDE, Secretary

State Capitol

**Oklahoma City
Oklahoma**

Accession No.

HD
2767
054
1817

UI

Received

Invoice

Cost

WRITE LEGIBLY

Author Walker, P. A.
Title Corporation commission laws of
Oklahoma.

No. of Copies
Edition
Date
Place
Vols.
Publisher.
List price
Est. price
Recommended by Countersigned by fund.
to be charged to

15m-11, '25

UNIVERSITY OF CALIFORNIA—SOUTHERN BRANCH

PREFACE

The aim of this book has been to compile the laws relating to the Corporation Commission of Oklahoma and its work, together with annotations on the important decisions of the Supreme Court of the State and of the Federal Courts affecting these laws, and important orders of the Corporation Commission. To this has been added laws covering the subjects related to those over which the commission has jurisdiction and concerning which it has most frequent inquiries.

The Corporation Commission was created and its powers and duties originally defined by Article 9 of the Constitution of Oklahoma; but these powers and duties have been added to and the jurisdiction of the Commission extended by each succeeding Legislature. It is the difficulty of searching through the Constitution, the Revised Laws of Oklahoma and the various Session Laws, to find the laws relating to the Corporation Commission and its work that has lead to this compilation.

The plan of the book has been to group the laws by chapters and articles according to subject matter, regard being had, as far as seemed consistent, to the order found in Revised Laws of Oklahoma, 1910. The sections have been numbered consecutively but, in order to avoid confusion, the section of the Constitution, Revised Laws, or Session Laws, from which taken is given after each section; also there is a table of cross sections in the front of the book giving the sections as originally found and corresponding section numbers herein.

The book is divided into nine chapters and appendix, substantially, as follows: Ch. 1. General Constitutional Provisions Creating the Corporation Commission and Defining its Duties, etc.; Ch. 2. Laws Relating to Common Carriers, Railways; Ch. 3. Laws Relating to Street Railways; Ch. 4. Laws Relating to Telegraph and Telephone Companies; Ch. 5. Laws Relating to Public Utilities, including gas, electric, heat, water and power companies; Ch. 6. Laws Relating to Cotton Gins and Ginning; Ch. 7. Laws Relating to Private Corporations; Ch. 8. Laws Relating to Monopolies, Anti-Trust Laws; Ch. 9. Laws Relating to Oil and Gas; and Appendix,—Practice Before the Commission, Suggested Forms.

Use of the book will undoubtedly lead to many valuable suggestions as to selection and arrangement of both subject matter and annotations in a later edition.

PAUL A. WALKER.

Legal Department
Corporation Commission
December, 1917

CONTENTS

EXPLANATORY NOTE: Annotations from Revised Laws of Oklahoma, 1910, are included herewith and reference is made thereto for explanation in the "Foreword". "L." and "S. L." refer to session laws; "S." refers to general statutes; Dakota references are to statutes of 1887, and Kansas to statutes of 1889. Each section herein is followed by section of law from which taken. Numbers of Constitution in parentheses refer to Williams' Annotated Constitution.

CHAPTER I—GENERAL CONSTITUTIONAL PROVISIONS, ETC.

ARTICLE I—GENERAL PROVISIONS.

	Page
Section 1. Commission—Terms—Vacancy filled by appointment-----	2
Section 2. Qualifications of Commissioners -----	2
Section 3. Oath to be taken and subscribed to—Provisions-----	3
Section 4. Organization of Commission—Chairman—Secretary—Quorum	3
Section 5. Salary of Commissioners -----	3
Section 6. Offices and Employees -----	4
Section 7. Annual Reports -----	4
Section 8. Fees -----	5
(a) Fees for Transcripts -----	5
(b) Fees for Refunds -----	5
Section 8A. Custody and Disposal of Funds -----	5
a) State Depository—State Treasurer -----	5
b. Fees and Penalties Collected by State Officers—Payment to State -----	5
c) Deposits—How Credited—Payments -----	6
d) Moneys Belonging to General Revenue Funds—Departments to Report to State Auditor -----	6
e) Penalty for Violation -----	7
Section 9. Annual Reports to the Governor—Recommendations as to Supervision and Taxation of Corporations -----	7
Section 10. Records of Corporations—Examinations -----	7
Section 11. Inspection of Books and Papers—Penalty -----	7
Section 12. Physical Valuation—Cost—Outstanding Indebtedness, etc.— When Due Interest Salaries of Officers and Employees of Public Service Corporations—Reports -----	8
Section 13. Terms "Corporations," "Company," "Charter," and "License" -----	8
Section 14. Term "Company" -----	9
Section 15. Terms "Transportation Company," "Rate," "Charge," "Regulation," "Transmission Company," "Freight," "Pub- lic Service Corporation," "Person," "Bond," and "Frank" Defined -----	9
Section 15A. Person Includes Corporation -----	9

TABLE OF CONTENTS

vii

	Page
Section 16. Sections of Constitution Subject to be Amended or repealed by the Legislature—When	10
Section 17. Commission—Its Power and duty—Fix Rates and Charges and Classifications and Rules—Correct Abuses—Prevent Discrimination and Extortion—To Require Service, Facilities and Conveniences	10
Section 18. Inspection of Books and Papers—Reports and Statements—Physical Condition—Security and Accommodation of the Public—Regulations to Prevent Discrimination and Extortion Between Connecting Lines	10
Section 19. Notice Required—Evidence—Objections—Hearings, etc.....	11
Section 20. Authority of Commission—Local Franchises—Arbitration—Mediation	11
Section 21. Authority of a Court of Record—Administer Oaths—Compel Attendance of Witnesses and Production of Papers—Punish for Contempt—Pending Appeal no Penalty to be Imposed....	21
Section 22. Commission Vested with Power of Court of Record—Refunds	22
Section 23. Judgment—Collection—Refunds	22
Section 24. Appealed Orders—Additional Judgment for Expenses of Commission—Refunds	22
Section 25. Right of Appeal—Refunds	23
Section 26. Unclaimed Refunds—Escheat to State	23
Section 27. Contempt Proceedings—Violating Rules of Commission	23
Section 28. Contempt Proceedings—When	24
Section 29. Contempt Proceedings—Pleadings, Trial and Appeal	24
Section 30. Contempt Proceedings—Suspension Bond	26
Section 31. Contempt Proceedings—Supreme Court to Give Precedence to Such Appeals	26
Section 32. Contempt Proceedings—Judgment Lien—Execution	27
Section 33. Contempt Proceedings—Judgment of Supreme Court on Appeal	27
Section 34. Contempt Proceedings—Moneys to be Paid Into State Treasury	27
Section 35. Contempt Proceedings—Taxation of Costs and Fees.....	28
Section 36. Contempt Proceedings—Attorney General to Prosecute.....	28
Section 37. Proceedings When no Quorum Present	28
Section 38. Depositions	28
Section 39. Penalty for Refusing Examination of Books	28
Section 40. Penalty for Refusing Examination of Books	29
Section 41. Penalty for Destroying Records	29
Section 42. Penalties Under Two Preceding Sections Cumulative.....	29
Section 43. Appeals—Orders Superseded—Supreme Court has Exclusive Appellate Jurisdiction—Manner of Procedure	29
Section 44. Supersedeas—Bond—Accounts—Reports—Additional Security—Appeals to Have Precedence	34
Section 45. No Additional or New Evidence to be Introduced in the Supreme Court—Facts Certified—Statement of Reasons filed—Prima Facie Presumption—Justness and Reasonableness of Order—Remand for Further Report	35
Section 46. If Order Reversed, New Order to be Substituted—Pending Appeal May Act on New Facts—No Order Retroactive.....	41

	Page
Section 47. Depots—Passengers—Adequate, Comfortable and Clean— Lighted—Warmed—Freight—Suitable	42
Section 48. Bulletining Trains—Railroad Agent Must Report Trains....	45
Section 49. Railroads, Oil Pipe, Express, Telephone and Telegraph Lines Right to Construct, Operate, Connect, Intersect and Cross....	46
Section 50. Grade Crossings—Interlock or Safety Devices—Expenses....	46
Section 51. Railroads to Maintain Connections	47
Section 52. Power of Commission to Order Connections, Depots, etc....	47
Section 53. Expenses of Same Prorated	47
Section 54. Industries to be Connected by Private Switch—Cost to be Borne by Private Owner—Penalty	48
Section 55. Jurisdiction of Courts not Impaired—Redress of Private Claims Against Transportation and Transmission Companies— Penalties Imposed by Commission for Public Welfare—Rate or Order not to be Challenged in Collateral Proceedings— Cases Suspended	50
Section 56. Interstate Rates—Investigation—Application to Interstate Commerce Commission for Correction or Relief	51
Section 57. Free Transportation and Franks Prohibited.....	52
Section 58. Passes and Franks—Penalty	52
Section 59. Long and Short Haul—Exemptions as to Junctional or Com- petitive Points—Special Rates, etc.	52
Section 60. Two-cent Passenger Fare	53
Section 61. Rate Regulation—Power Conferred Upon Commission—Pas- senger Fare	53
Section 62. Effect of Act—Amendment of Constitution—Passenger Fare	53
Section 63. Right of Appeal—Passenger Fare	54
Section 64. Power to Collect and Disburse Refunds—Two-cent Passenger Fare	54
Section 65. Claimants—Proof—Two-cent Passenger Fare	54
Section 66. Inspection of Railroad Books—Passenger Fare	54
Section 67. Unclaimed Refunds—Reversion to State—Two-cent Passenger Fare	54
Section 68. Railroads—Public Highways—Public Service Corporations— Annual Meeting of Stock Holders—Office in the State for Transfer of Stock, etc.—Reports to Corporation Commission	55
Section 69. Rolling Stock Personal Property Subject to Execution and Sale	56
Section 70. Consolidation with Competing Lines by Sale or Lease Pro- hibited	56
Section 71. Consolidations with Foreign Corporations Prohibited.....	57
Section 72. Provisions of Constitution to be Accepted Before Securing Benefit of Future Legislation	57
Section 73. Articles or Commodities Produced, Mined or Manufactured by a Railroad not to be Transported by It	57

CHAPTER II—CARRIERS—RAILROADS.

Article I. Carrier in General	58
Article II. Carriers of Persons	62
Article III. Carriage of Property	68

TABLE OF CONTENTS

ix

	Page
Article IV. Separate Coach Law	75
Article V. Manner of Incorporation—Duties, etc.	78
Article VI. Private Property for Public Use—Eminent Domain.....	89
Article VII. Duties Governing Operation, etc.	100
Article VIII. Miscellaneous	128
Article IX. Proclamation of the President of the United States, Taking Possession and Assuming Control of the Railroads of the United States	139

ARTICLE I—CARRIERS IN GENERAL.

Section 74. Railroads and Express Companies—Common Carriers—To Transport Each Other's Cars and Passengers	58
Section 75. Contract for Carriage	58
Section 76. Gratuitous Carriers	59
Section 77. Same—Must Complete Duty	59
Section 78. Common Carrier Defined	59
Section 79. Duty of Common Carrier	59
Section 80. Governments May be Preferred	59
Section 81. Must Start—When—Where	59
Section 82. Compensation	59
Section 83. Agents not to Collect Excessive Rates	60
Section 84. Same	60
Section 85. Schedules of Rates to be Kept Open	60
Section 86. Penalty for Overcharges	60
Section 87. Penalty for Concealing Schedules	60
Section 88. Obligations—How Limited	61
Section 89. Certain Agreements Void	61
Section 90. Construction of Contract	62

ARTICLE II—CARRIAGE OF PERSONS

Section 91. Carriers of Persons Without Reward	62
Section 92. Carriers for Reward Must Use Utmost Care	62
Section 93. Must Use Safe Vehicles	63
Section 94. Must Not Overload Vehicle	63
Section 95. Treatment of Passengers	63
Section 96. Speed and Delays	64
Section 97. Must Carry Luggage	64
Section 98. Luggage Defined	64
Section 99. Liability for Luggage	64
Section 100. Carriage and Delivery of Luggage	64
Section 101. Must Provide Vehicles	65
Section 102. Must Provide Seats for Passengers	65
Section 103. Carrier May Make Rules	65
Section 104. Fare—When Payable	65
Section 105. Ejection of Passengers	66
Section 106. Lien on Luggage for Fare	67
Section 107. Liability of Carrier of Freight	67
Section 108. Same	67

ARTICLE III—CARRIAGE OF PROPERTY

	Page
Section 109. Definitions	68
Section 110. Care Required of Carrier	68
Section 111. Must Obey Directions	69
Section 112. When Directions are Conflicting	69
Section 113. Manner of Delivery	69
Section 114. Place of Delivery	69
Section 115. Notice to Consignee	69
Section 116. Termination of Liability	69
Section 117. Sale of Unclaimed Property	70
Section 118. Sale of Perishable Property	70
Section 119. Application to Hotel-keepers and Warehousemen.....	70
Section 120. Bill of Lading Defined	70
Section 121. Bill of Lading Negotiable	71
Section 122. Negotiable by Delivery, When	71
Section 123. Effect of Bill of Lading	71
Section 124. Sets of Bills to Consignor	71
Section 125. Delivery to Holder of Bill	71
Section 126. Surrender of Bill of Lading May be Required	71
Section 127. Freightage Due, When	71
Section 128. Who Liable for Freightage	72
Section 129. Consignee Liable, When	72
Section 130. Natural Increase	72
Section 131. Apportionment of Freightage	72
Section 132. Acceptance of Part of Freight	72
Section 133. Apportionment According to Distance	72
Section 134. Extra Carriage	72
Section 135. Liability for Delays	72
Section 136. Valuables Must be Declared	73
Section 137. Accepting Freight Beyond the Usual Route	73
Section 138. Proof of Loss	73
Section 139. Lien for Freightage	73
Section 140. Shipments of Coal—Bill to Show Weight	73
Section 141. Same Re-weighing—Liability for Shrinkage	74
Section 142. Re-weighed on Transfer	74
Section 143. Consignee May Weigh, When	74
Section 144. Penalty	74
Section 145. Weighing Interstate Shipments of Coal	75
Section 146. Weights, How Determined	75

ARTICLE IV—SEPARATE COACH LAW.

Section 147. Separate Coaches	75
Section 148. Separate Waiting Rooms	76
Section 149. Negro Defined	76
Section 150. Separate Coach Defined	76
Section 151. Penalty for Violation by Company	76
Section 152. Penalty for Violation by Passenger	76
Section 153. Not Applicable to Peace Officers	77
Section 154. Act Must be Enforced in Depots and Cars	77
Section 155. Special Trains	77

TABLE OF CONTENTS

x1

	Page
Section 156. Power of Conductors	77
Section 157. Fines to go to School Fund	78

ARTICLE V—MANNER OF INCORPORATION—DUTIES, ETC.

Section 158. Articles and Certificate	79
Section 159. Directors to Open Stock Books	79
Section 160. Directors	80
Section 161. Officers	80
Section 162. Stock Deemed Personal Estate	80
Section 163. Capital Stock—How Increased	80
Section 164. Powers of Railroad Corporations	81
Section 165. May Borrow Money	83
Section 166. Extensions and Branches May Be Built	84
Section 167. Route May be Changed, When	84
Section 168. Changing Corporate Name	85
Section 169. To Restore Stream or Highway	85
Section 170. Construction Over Highway	86
Section 171. What Property Subject to Mortgage	86
Section 172. Execution of Conveyance or Lease	86
Section 173. Vendor's Lien on Equipment	87
Section 174. Manner of Recording Contract—Fees	87
Section 175. Directors May Set Aside Money for Payment of Debts.....	87
Section 176. Defense of Usury Prohibited	88
Section 177. Directors May be Classified	88
Section 178. Annual Report to Stockholders	88

ARTICLE VI—PRIVATE PROPERTY FOR PUBLIC USE
—EMINENT DOMAIN.

Section 179. Power to Enter Upon Lands	90
Section 180. Extension of Road Into State	90
Section 181. Private Property for Public Use—Fee of Land taken by Common Carriers for Right of Way	91
Section 182. Eminent Domain—Foreign Corporations to Domesticated to Secure Its Benefits	91
Section 183. May Purchase or Take Realty	91
Section 184. Taking by Eminent Domain—Commissioners	92
Section 185. Same—Owner Entitled to Compensation, When	93
Section 186. Same—Review of Report	93
Section 187. Same—Appeal to Supreme Court	93
Section 188. Eminent Domain in General	94
Section 189. Commissioners to Act in All Cases	94
Section 190. Settlement with Incompetents	95
Section 191. Unknown Owner	95
Section 192. Right of Way on Public Lands—Damages to Occupants.....	95
Section 193. Changing Line or Grade	95
Section 194. Municipal Authorities May Convey—Improvement Districts —How Highways Occupied	96
Section 195. Certain State Lands Subject to Right of Eminent Domain..	97
Section 196. Condemnation Procedure	97
Section 197. Compensation of Appraisers	98

	Page
Section 198. Eminent Domain Extended to Oil Pipe Lines Same as Railroads	99
Section 199. Same—As to Water-power Companies	99
Section 200. Same—As to Municipalities	99
Section 201. Others Who May Exercise the Right	99
Section 202. United States May Condemn Lands	99
Section 203. Jurisdiction	100
Section 204. Jurisdiction—When to Vest	100

ARTICLE VII—DUTIES GOVERNING OPERATION, ETC.

Section 205. Rules for Running Trains	101
Section 206. Penalty for Violation	101
Section 207. Demurrage	101
Section 208. Same—Notice	102
Section 209. Must Receive and Forward Freight—Rate of Speed Penalty	102
Section 210. Must Give Notice of Arrival of Freight	103
Section 211. Disposition of Freight and Cars	103
Section 212. Shippers Given Time for Loading Cars—Demurrage	104
Section 213. Notice of Arrival—Free Time	104
Section 214. Warehouse Charges	105
Section 215. Action to Enforce Penalty—Attorney's Fee	105
Section 216. Scope of Law	105
Section 217. Agent's Neglect of Duty	114
Section 218. Injuries to Persons	114
Section 219. Fare Paid Imposes Duty on Company	115
Section 220. Changing Highway	115
Section 221. Same—To Provide Temporary Way	115
Section 222. Bridge Repairs	115
Section 223. Signs at Crossings	115
Section 224. Same—Neglect	115
Section 225. Bells and Whistles	116
Section 226. Failure to Ring Bell of Locomotive	116
Section 227. Causeway	116
Section 228. Railroads to Construct Crossings	116
Section 229. Same Powers of City Council	117
Section 230. Kind of Headlight Required	118
Section 231. Penalty	118
Section 232. Railroads to Fence Their Roads	118
Section 233. Lawful Fence Defined	119
Section 234. Rights of Adjacent Land Owners	119
Section 235. Failure to Fence Penalty	119
Section 236. Stock Killed Posting Notices Records	119
Section 237. Railroads Must Fence Right of Way with Hog Wire, When	120
Section 238. Notice to Railroads	120
Section 239. Owner of Abutting Land May Construct if Railroad Refuses Penalty	120
Section 240. Right to Deal in Passage Tickets	121
Section 241. Purchasers May Sell Tickets	121
Section 242. Company May Lease or Sell	121

	Page
Section 243. Transportation Companies Must Maintain Repair Shops in State	121
Section 244. Same	122
Section 245. Eminent Domain Acceptance of Terms of Act	122
Section 246. Forfeiture of Charter and Other Penalty	122
Section 247. Railroad Shops—Removal—Permit	122
Section 248. Corporation Commission—Jurisdiction	123
Section 249. Hearing—Before Corporation Commission	123
Section 250. Proof—Burden Upon Applicant	123
Section 251. Domestication—Time Etended for Constrction	123
Section 252. Same—Foreign Corporations in the Territory	124
Section 253. Filing Map of Route	124
Section 254. Domestication of Foreign Corporations by Resolution	124
Section 255. Foreign Corporations—Increase of Capital Stock	125
Section 256. Domestic Corporations—Increase of Capital Stock	125
Section 257. Must Begin Work in Two Years	126
Section 258. Cancellation of Charter, When	126
Section 259. Name of Town to be Name of Station	126
Section 260. Penalty for Violation	126
Section 261. Railroad Must Pass Through County Seat	127
Section 262. Intrastate Passenger Trains—County Seat Stops	127
Section 263. Same—Penalty	127
Section 264. Hospitals for Employes—Corporation Commission to Regulate	127
Section 265. Regulations—Removal of Injured from State	127
Section 266. Investigations—Protection of Complainant	128

ARTICLE VIII—MISCELLANEOUS.

Section 267. Animals in Transit	129
Section 268. Railway Companies to Disinfect Cars and Pens—Penalty... ..	129
Section 269. Transportation of Animals; Limitation of Time of Confinement in Cars, Boats, or Vessels; Unloading for Rest, Water and Feeding; Extension of Time on Request of Owner, etc.; Sheep not Required to be Unloaded in Nighttime.....	129
Section 270. Animals Unloaded to be Fed and Watered by or at Expense of Owner, etc.; Lien for Food, Care, etc.	130
Section 271. Penalty for failure to Comply with Provisions of Two Preceding Sections—Provisions for Unloading not to Apply Under Certain Circumstances	130
Section 272. Penalty Recoverable by Civil Action; Duty of District Attorneys to Prosecute	131
Section 273. Trespassing on Railway Trains a Misdemeanor.....	131
Section 274. Offenders—Where Tried	131
Section 275. Removing or Masking Signal Light	131
Section 276. Injuries to Railroads	131
Section 277. When Death Ensues Therefrom	132
Section 278. Railway Companies May Appoint Police	132
Section 279. Forging Tickets of Passage	132
Section 280. Larceny of Passage Ticket	132
Section 281. Larceny of Securities	133
Section 282. Fraudulent Bill of Lading	133

	Page
Section 283. Fraudulent Warehouse Receipts	133
Section 284. Same—Exception	134
Section 285. Duplicate Receipts or Vouchers	134
Section 286. Selling Goods Without Consent of Holder of Bill of Lading..	134
Section 287. Unlawful Delivery of Goods, What Is	134
Section 288. When Law Does not Apply	135
Section 289. Shipment of Dead Body	135
Section 290. Liquor Shipments—Bone Dry Law	135
Section 291. Misdemeanor to Drink Liquor in Public Places	135
Section 292. Railroad Conductor Has Power to Arrest	136
Section 293. Drunken Engineer or Conductor or Driver	136
Section 294. Misdemeanor for Consignee to Give Order to Carrier	136
Section 295. Misdemeanor for Agent of Carrier to Deliver Liquors	137
Section 296. Misdemeanor to Transport Liquor Under False Name	137
Section 297. Fellow Servants—Rule Abolished—When	137
Section 298. Railroad Repair Tracks to be Sheltered	138
Section 299. Penalty	138
Section 300. Repairing of Steam Boilers Unlawful, When	138
Section 301. Liens Against Railroads	138
Section 302. Life of Lien	138
Section 303. How Enforced	139
Section 304. Notice	139

CHAPTER III—CARRIERS—STREET RAILWAYS.

ARTICLE I—GENERAL LAWS.

Section 305. Street Railways—Local Authorities Must First Consent....	142
Section 306. Electric Railways	142
Section 307. Light and Power Franchises in Cities and Towns	143
Section 308. Franchises Legalized	143

CHAPTER IV—CARRIERS OF MESSAGES—TELEGRAPH AND TELEPHONE.

ARTICLE I—GENERAL LAWS.

Section 309. Telegraph and Telephone Companies to Receive and Transmit Each Other's Messages—Physical Connections to be Made..	144
Section 310. Messages Must be Delivered	144
Section 311. Care Required	144
Section 312. Duty of Telegraph Company	144
Section 313. Duty of Other Carriers of Messages	145
Section 314. Damages	145
Section 315. Damages—Mental Anguish	145
Section 316. Separate Telephone Booths for White and Colored Confer- ence—Jurisdiction on Corporation Commission	147
Section 317. Unlawful to Construct Telephone Lines Unless Public Con- venience and Necessity Demand	147
Section 318. Corporation Commission—Jurisdiction	147
Section 319. Application—Corporation Commission	147
Section 320. Repairing Line—Maintenance	148

	Page
Section 321. Telegraph and Telephone Lines—Right of Way Over Lands— Railroad Property	148
Section 322. Injuring Telegraph or Telephone Lines	150
Section 323. Injury to Poles and Wires	150
Section 324. Destroying Telegraphic Dispatches	150
Section 325. Secreting Telegraphic Dispatches	150

**CHAPTER V—PUBLIC UTILITIES—HEAT, LIGHT,
WATER AND POWER COMPANIES.**

Article I. Gas, Electric, Water Companies, etc.—General Laws.....	151
Article II. Use of Highways by Heat, Light or Power Companies—Right of Eminent Domain—Use of Bridges by Public Service Companies	155
Article III. Franchises—Right of City to Engage in Business	158

**ARTICLE I—GAS, ELECTRIC, WATER COMPANIES,
ETC.—GENERAL LAWS.**

Section 326. Definition of Terms—“Public Utilities”	151
Section 327. Commission’s Jurisdiction Over Public Utilities	151
Section 328. Implied Powers of Commission—Contempt	152
Section 329. Records of Public Utility Business	152
Section 330. Orders of Commission—Scope—Right of Appeal	152
Section 331. Distribution of Natural Gas—Standard Meters—Municipalities Affected	154
Section 332. Violations of Act—Punishment	154
Section 333. Fraudulent Consumption of Gas	155
Section 334. Minimum Charge Prohibited—Gas	155
Section 335. Penalty	155

**ARTICLE II—USE OF HIGHWAYS BY HEAT, LIGHT OR
POWER COMPANIES—RIGHT OF EMINENT DO-
MAIN — USE OF BRIDGES BY PUBLIC
SERVICE COMPANIES.**

Section 336. Right to Lay Pipes Under Highways—Terms and Conditions	155
Section 337. Corporation Commission Given Authority to Determine Con- troversies	156
Section 338. Right of Eminent Domain	156
Section 339. Roads and Highway—Bridges—County Commissioners—Su- pervision	157
Section 340. Corporations to Pay Toll	157
Section 341. Bridges—Use of by Public Service Corporation—Bonds, etc	157

**ARTICLE III—FRANCHISES—RIGHT OF CITY TO
ENGAGE IN BUSINESS.**

Section 342. Franchise to be Granted Only When Approved by Electors —Maximum Period 25 Years	158
Section 343. Petition for Franchise—Twenty-five per Centum of Electors Required—Special Election to be Called to Vote Thereon...	158
Section 344. Franchises—Restrictions on Grant	159

	Page
Section 345. Municipal Corporations May Engage in Business	159
Section 346. Cities May Engage in Business and Acquire Public Utilities	159
Section 347. Authorized to Expend Funds—Ice Plants	161
Section 348. Incorporation Acts and Ordinances Legalized	161
Section 349. Lighting Streets	161
Section 350. Powers of Town Board of Trustees	162

CHAPTER VI—PUBLIC UTILITIES—COTTON GINS.

Article I. Regulating Gins and Ginning of Seed Cotton—Corporation Commission	162
Article II. Ginners and Dealers	165
Article III. Cotton Compresses—Weights—Records	166

ARTICLE I—REGULATING GINS AND GINNING OF SEED COTTON—CORPORATION COMMISSION.

Section 351. Cotton Gins Declared Public Utilities	163
Section 352. Ginners to be Licensed	163
Section 353. Power of Corporation Commission—Location of Gins	163
Section 354. Regulation of Gins	163
Section 355. Appeals to Supreme Court	164
Section 356. Regulations—Enforcement of Orders	164
Section 357. Validity of Several Sections—Cotton Gin Law	164

ARTICLE II—GINNERS AND DEALERS.

Section 358. Record kept by Ginners	165
Section 359. Record kept by Ginners and Buyers	165
Section 360. Defacing Brands or Marks	165
Section 361. Manager of Gin to Make Report	166
Section 362. Penalty for Violation	166

ARTICLE III—COTTON COMPRESSES—WEIGHTS— RECORDS.

Section 363. County Weigher Must Weigh and Record Cotton	166
Section 364. Compensation	166
Section 365. Scales Tested	166
Section 366. Interested Persons Present	167
Section 367. Repeal	167
Section 368. Violations	167

CHAPTER VII—PRIVATE AND PUBLIC SERVICE CORPORATIONS—GENERAL.

Article I. License Law—Reports to Corporation Commission—Fees	168
Article II. General Constitutional Provisions—Creation of Corporations	175
Article III. Corporate Stock	182
Article IV. Corporate Powers	184
Article V. Corporate Records	196
Article VI. Dissolution of Corporations	197
Article VII. Foreign Corporations	200

	Page
Article VIII. Domicile of Business Concerns—Venue of Actions	204
Article IX. Frauds—Contributing to Political Campaigns	209
Article X. Corporations—Employees	215

ARTICLE I — LICENSE LAW—REPORTS TO CORPORATION COMMISSION—FEES.

Section 369. Private Corporations—Created or Licensed Only by General Law	168
Section 370. Corporations to File with Commission List of Stockholders, Officers and Directors—Residence—Amount Held by Each—Foreign Corporation to Designate Agent	168
Section 371. Foreign Corporations—Restrictions	168
Section 372. State License Required—Certain Companies Excepted.....	169
Section 373. License from Corporation Commission—Annual Fee	169
Section 374. Fees Payable, When and Where	170
Section 375. Annual Statement by Domestic Corporations	170
Section 376. Same by Foreign Corporations	170
Section 377. Statements not Conclusive	170
Section 378. Period of License	171
Section 379. Failure to Pay Fees—Penalties	171
Section 380. Same	171
Section 381. Further Penalty	172
Section 382. False Statement Perjury	173
Section 383. Filing Same Subornation of Perjury	173
Section 384. Corporations—Fees of Secretary of State	173

ARTICLE II — GENERAL CONSTITUTIONAL PROVISIONS—CREATION OF CORPORATIONS.

Section 385. Stock —Issue—Notice of Increase	175
Section 386. Legislature May Alter or Annul Charter or Franchise.....	176
Section 387. A Corporation Owning Stock in a Competitive Corporation or One Engaged in the Same Kind of Business Prohibited—Exceptions	176
Section 388. County or Other Municipality Not to Participate in Private Enterprise—Neither Stockholder in Nor Lend Its Credit Nor Aid a Corporation, Association or Individual	177
Section 389. Corporations Creatures of the Law	177
Section 390. Corporations Created by Statute	177
Section 391. Power Reserved to Alter	177
Section 392. Corporations Cannot be Attacked Collaterally	177
Section 393. Must Have Corporate Name	178
Section 394. Classes of Corporations	178
Section 395. Public Corporations	178
Section 396. Private Corporations	178
Section 397. Private Corporations May be Formed—For What Purpose..	178
Section 398. Articles of Incorporation—Officers	179
Section 399. Corporations Must Accept Law	179
Section 400. Acceptance—How Proved	179
Section 401. Corporations Validated	179

	Page
Section 402. Legalizing Acts of Corporations	179
Section 403. Contents of Articles of Incorporation	180
Section 404. Railroads and Wagon Roads	180
Section 405. Amendment of Articles	180
Section 406. Charters Extended	181
Section 407. One-third of Incorporators Must be Residents	181
Section 408. Certificates to Issue	181
Section 409. Articles to be Recorded	181
Section 410. Copy of Articles Evidence	181
Section 411. Not Necessary to Prove Incorporation	181
Section 412. Stockholders—Members	182
Section 413. Stock of Minor, Insane Person or Decedent	182
Section 414. Married Woman's Stock	182

ARTICLE III—CORPORATE STOCK.

Section 415. Subscription to Stock May be Enforced	182
Section 416. Subscription Books	182
Section 417. May Forfeit Stock or Recover Subscriptions	183
Section 418. Issue and Transfer of Stock	183
Section 419. Excess Issue Void	183
Section 420. Corporation May Own Its Stock	183
Section 421. Dividend Belongs to Whom	184

ARTICLE IV—CORPORATE POWERS.

Section 422. Powers of Corporations	184
Section 423. Corporations Prohibited from Acquiring or Holding Land— Exceptions	185
Section 424. Land Companies	186
Section 425. Disposition of Surplus Realty	187
Section 426. Same—Escheat Land Illegally Held by Corporations	187
Section 427. Statements by Corporation Officers—Record	188
Section 428. Applies to All Corporations	188
Section 429. Punishment for Failure to File	188
Section 430. Must Adopt By-laws	189
Section 431. What By-laws May Provide	189
Section 432. Certificate and Record of By-laws	190
Section 433. Election of Directors	190
Section 434. Same	190
Section 435. Same	190
Section 436. Number of Directors and Their Powers	190
Section 437. Directors to Elect Officers	191
Section 438. Dividends—Liability of Directors	191
Section 439. False Representation by Officer	192
Section 440. Removal of Directors	192
Section 441. Quorum of Stockholders—Proxies	192
Section 442. Postponed Elections	193
Section 443. Complaint on Election	193
Section 444. Place of Meetings	193
Section 445. Calls—By Whom Made	193

	Page
Section 446. Same—Vacancy	194
Section 447. Individual Liability of Stockholders	194
Section 448. Written Consent to Meeting	195
Section 449. Transfer of Stock to Non-resident	195
Section 450. Change in Capital Stock	195

ARTICLE V—CORPORATE RECORDS.

Section 451. Record of Business Transactions and Meetings	196
Section 452. Stock and Transfer Book	197

ARTICLE VI—DISSOLUTION OF CORPORATIONS.

Section 453. Dissolution of Corporations	197
Section 454. Voluntary Dissolution	197
Section 455. Action for Involuntary Dissolution	198
Section 456. Same—Leave to Bring Action	199
Section 457. Action Against Illegal Corporations	199
Section 458. Judgment of Dissolution	199
Section 459. Costs	199
Section 460. Receiver to be Appointed	199
Section 461. Judgment to be Filed	200
Section 462. Lapse of Corporation by Non-user	200
Section 463. Directors Trustees on Dissolution	200
Section 464. Liability of Trustees	200
Section 465. Revival of Corporation	200

ARTICLE VII—FOREIGN CORPORATIONS.

Section 466. Foreign Corporation Must File Copy of Charter	201
Section 467. Must Appoint Resident Agent	201
Section 468. Record of Appointment	202
Section 469. Contracts Void for Non-compliance	202
Section 470. Process Served on Secretary of State, When	202
Section 471. Scope of Article	203
Section 472. Must Not Sue Without Complying	203
Section 473. Production of Evidence Required	203
Section 474. Violation of Order—Penalty	204

ARTICLE VIII—DOMICILE OF BUSINESS CONCERNS— VENUE OF ACTIONS.

Section 475. Domicile of Business Houses	204
Section 476. Penalty for Declaration of Foreign Domicile	204
Section 477. Same—Duty of Judge	205
Section 478. Same—Forfeiture of License	205
Section 479. Punishment for Conducting Business After License Revoked	205
Section 480. Effect of Article on Eminent Domain	205
Section 481. Venue of Actions Against Domestic Corporations	205
Section 482. Actions Against Transportation or Transmission Companies	206
Section 483. Action Against Foreign Corporations and Non-Residents	206
Section 484. Service of Summons on Corporation	206

	Page
Section 485. Agent to Receive Service in Each County	207
Section 486. Appointment to be Recorded	207
Section 487. Service Where no Agent Appointed	208
Section 488. Venue of Actions and Service of Process—Foreign Corporations	208
Section 489. Corporation's Non-compliance with Law—Venue—Process	208
Section 490. Same—Effect of Revocation of Charter	209
Section 491. Act Merely Cumulative	209

ARTICLE IX—FRAUDS—CONTRIBUTING TO POLITICAL CAMPAIGNS.

Section 492. Forgery of Public and Corporate Seals	210
Section 493. Fraud in Subscription of Stock	210
Section 494. Fraud in Procuring Organization of Stock Company	210
Section 495. Unauthorized Use of Names	210
Section 496. Omitting to Enter Receipt	211
Section 497. Destroying or Falsifying Books	211
Section 498. Publishing False Reports of Corporation	211
Section 499. Refusing to Permit Inspection of Books	211
Section 500. Insolvencies Deemed Fraudulent	211
Section 501. How Punishable	212
Section 502. Violation of Duty by Officer of Corporation	212
Section 503. Directors Presumed to Have Knowledge	212
Section 504. Director Presumed to Have Assented, When	212
Section 505. Same—When Director was Absent from Meeting	212
Section 506. Foreign Corporation no Defense	213
Section 507. Director Defined	213
Section 508. Fraudulent Advertising	213
Section 509. Corporations Prohibited from Contributing to Political Campaigns	213
Section 510. Employees to be Allowed Time to Vote	213
Section 511. Corporate Contributions to Campaign Funds	214
Section 512. Other Offenses by Corporations	214
Section 513. Same—By Agents	215

ARTICLE X—CORPORATIONS—EMPLOYEES.

Section 514. Eight Hours to Constitute Day's Work—State or County	215
Section 515. Nine-hour Day for Women—Business Included	215
Section 516. Exceptions in Times of Calamity or Rush	215
Section 517. Conveniences for Women—Seats for Rest	216
Section 518. Penalty for Violation	216
Section 519. Monthly Wages to be Paid Semi-monthly in Certain Occupations	216
Section 520. Payment in Non-negotiable Paper a Misdemeanor	217
Section 521. Penalty for Violating Two Preceding Sections	217
Section 522. Transportation and Transmission Companies to Have Two Pay Days Each Month	217
Section 523. Failure of Company to Comply—Punishment	217
Section 524. Bonds of Employees—Free Choice of Sureties by Employees	218
Section 525. Resident Sureties Required	218

	Page
Section 526. Corporation to Give Letter to Employee Leaving Service...	218
Section 527. Blacklisting	219
Section 528. Same—Penalty	219

CHAPTER VIII—MONOPOLIES, ANTI-TRUST LAWS.

ARTICLE I—DISCRIMINATION—COMBINATIONS IN RESTRAINT OF TRADE—IN GENERAL.

Section 529. Discrimination Between Persons, Communities, etc.— Monopoly Prohibited	220
Section 530. Trusts Declared Illegal	220
Section 531. Duty of Attorney General	221
Section 532. Same—Restraining Orders—Receiver	221
Section 533. Duty of Receiver—Evidence	222
Section 534. Stay Bond	222
Section 535. Recourse of Injured Parties	222
Section 536. Foreign Corporations Forfeit License by Violation	223
Section 537. Discrimination Unlawful	223
Section 538. Penalty and Recovery	223
Section 539. Indictment or Information Shall State What	223
Section 540. Witnesses	224
Section 541. County Attorneys to Prosecute	224
Section 542. Combination in Restraint of Trade Unlawful	224
Section 543. Penalty for Corporation Owning Stock of Competitor.....	225
Section 544. State to have Lien on Property of Law Breaking Corporation	225
Section 545. Public Business Defined	226
Section 546. Proof Required	226
Section 547. Previous and Continuous Violations Included	227
Section 548. Remedies Additional to Former Remedies	227
Section 549. No Recovery for Goods Sold in Violation Hereof	227
Section 550. Purchaser May Recover Damages	227
Section 551. County Attorneys to Prosecute—Reward	228
Section 552. "Unfair Discrimination"—Definition	228
Section 553. Investigations—Actions—Revocation of Charters and Permits	228
Section 554. Violation of Act—Punishment	229
Section 555. "Combination" of Corporations—Definition	229
Section 556. "Unfair Competition"—Definition—Exceptions	229
Section 557. Damages to weaker Competitor—Liability of "Combination"	229
Section 558. Act Cumulative to Other Legal Remedies	230

CHAPTER IX—OIL AND GAS.

Article	I. Jurisdiction' Conferred on Corporation Commission—Oil and Gas Department	230
Article	II. Oil—Oil Pipe Lines	231
Article	III. Oil Conservation Law—Regulation of Production, Crude Oil	235
Article	IV. Natural Gas—Gas Pipe Lines	239
Article	V. Natural Gas—Regulation of Production and Transportation—Conservation	242
Article	VI. Laws Relating to the Inspection of Gasoline and Other Petroleum Products	259

	Page
Article VIa. Requiring Gasoline to be Kept in Red Tanks	269
Article VII. Oil and Gas Gross Production Tax Law	269
Article VIII. Miscellaneous, Leasing State Lands, etc.	274

ARTICLE I—JURISDICTION CONFERRED ON CORPORATION COMMISSION—OIL AND GAS DEPARTMENT.

Section 559. Oil and Gas Department Authorized—Chief Conservation Agent	230
Section 560. Authority and Duties Conferred Exclusively Upon Corporation Commission	231
Section 561. Repealing Clause	231

ARTICLE II—OIL—OIL PIPE LINES.

Section 562. Oil Pipe Lines to be Controlled and Regulated by the Corporation Commission—To Receive and Transport Each Other's Tonnage, Oils, etc.	231
Section 563. Oil Companies Must Comply with This Article—Penalty....	231
Section 564. Right of Way	232
Section 565. Foreign Corporations	232
Section 566. Common Purchasers of Oil—Required to Purchase.....	232
Section 567. Same—Exemptions	233
Section 568. Oil Carriers are Common Carriers—Discrimination Prohibited	233
Section 569. Oil Carriers Not to be Interested in Producing	233
Section 570. Acceptance of Laws and Plats to be Filed	233
Section 571. Domestic Pipe Line Companies Have Right of Way.....	234
Section 572. Who May Have Right of Eminent Domain	234
Section 573. Commission May Extend Time	234
Section 574. Penalty for Violations	235
Section 575. Suspension of Penalty, When	235
Section 576. Certified Transcripts Shall be Evidence	235

ARTICLE III—OIL CONSERVATION LAW—REGULATION OF PRODUCTION, CRUDE OIL.

Section 577. Waste Prohibited	235
Section 578. Production and Sale Regulated—Corporation Commission....	236
Section 579. Waste Defined—Protection	236
Section 580. Production Regulated—Discrimination of Purchaser Prohibited	236
Section 581. Wells Gauged	237
Section 582. Enforcement of Act—Hearings Before Corporation Commission	237
Section 583. Appeals to Supreme Court—Effect on Orders	237
Section 584. Penalty for Violation	237
Section 585. State May Secure Receiver—Extent and Manner	238
Section 586. Validity of Relative Sections of Act	238

ARTICLE IV—NATURAL GAS—GAS PIPE LINES.

Page

Section 587.	Gas Corporations	239
Section 588.	Foreign Pipe Lines Shall not be Licensed	239
Section 589.	Gas from Interstate Pipe Lines—License from Corporation Commission	239
Section 590.	Foreign and Domestic Corporations to Have Separate Owner- ship	240
Section 591.	Pipe Line Companies Must Comply with This Article	240
Section 592.	Right of Way Must Be Granted by Charter and Damages Paid	240
Section 593.	Inspection	240
Section 594.	Pressure Pumps Prohibited	240
Section 595.	Lines Over Private Property	241
Section 596.	Corporations Become Domestic	241
Section 597.	Information to be Furnished Commission	241
Section 598.	Domestic Pipe Line Companies May Erect Pumping Stations	241
Section 599.	Domestic Pipe Line Companies May Cross Highways	242

ARTICLE V — NATURAL GAS—REGULATION OF PRODUCTION AND TRANSPORTATION—CONSERVATION.

Section 600.	Business and Persons Subject to the Act—Invested Rights Excepted	243
Section 601.	Pipe Line Right of Way—Eminent Domain—Highways	243
Section 602.	Pipe Line Operators Common Purchasers—Requirements— Exemptions	243
Section 603.	Pipe Line Operators to be Common Carriers—Obligations— Exemptions	244
Section 604.	Non-compliance with Act Made Unlawful—Effect	245
Section 605.	Prerequisite to Carrying Gas—Records for Corporation Commission	245
Section 606.	Right of Way—Highways—Eminent Domain	246
Section 607.	Filing Records with Corporation Commission—Extension of Time	246
Section 608.	Only 25 Per Cent of Capacity of Gas Wells to be taken	246
Section 609.	Meters—Requirements	246
Section 610.	Violation of Act—Punishment	247
Section 611.	Violations—Receivership—Procedure	247
Section 612.	Evidence—Reports of Gas Companies	248
Section 613.	Enforcement by Corporation Commission—Appeals	248
Section 614.	Gas to be Confined Until Used	248
Section 615.	Unnecessary Waste from Gas Pipe Line Unlawful	248
Section 616.	Flambeau Lights Unlawful	248
Section 617.	Hours Lights May be Used at Derrieks	249
Section 618.	Burning Gas During Day	249
Section 619.	Disposition of Waste from Wells	249
Section 620.	Abandoned Wells to be Plugged, How	249
Section 621.	“Plugged Well Record” Kept Open to Public	249
Section 622.	Corporation Commission Authorized to Publish List of Abandoned Oil and Gas Wells	249

	Page
Section 623. Appropriation for Publishing of List of Abandoned Oil and Gas Wells	250
Section 624. Inspectors—Appointment—Qualifications	250
Section 625. Inspectors to Supervise Plugging	250
Section 626. Operator to Furnish Inspector Record of Drilling	250
Section 627. Firing Oil or Gas or Interfering with Appliances Unlawful ..	250
Section 628. Penalty for Violation	251
Section 629. Ownership Defined	251
Section 630. Rights of Owners—Restrictions on Output	251
Section 631. Purchasers of Output—Prices and Amounts of Gas to be Taken	251
Section 632. Taking More Than Share of Gas—Damages and Penalties ..	252
Section 633. Violations of Act—Punishment	252
Section 634. Waste Prohibited	252
Section 635. Waste Defined	252
Section 636. Conservation of Gas	252
Section 637. Excess Gas Supply—Apportionment	252
Section 638. "Common Purchases"—Fair Treatment	253
Section 639. Hearings Before Corporation Commission—How Conducted ..	253
Section 640. Appeals to Supreme Court	254
Section 641. Power of Corporation Commission—Rules and Regulations ..	254
Section 642. Acceptance by Pipe Lines	254
Section 643. Validity of Several Sections of Act Independent	254
Section 644. Penalties for Violation	254

ARTICLE VI—LAWS RELATING TO THE INSPECTION OF GASOLINE AND OTHER PETROLEUM PRODUCTS.

Section 645. Jurisdiction to Inspect Liquid Products Conferred on Corporation Commission	260
Section 646. Terms Defined	260
Section 647. Duties of Inspector	260
Section 648. Inspectors—Appointment—Duties—Salaries	261
Section 649. Oil Test	261
Section 650. Manner of Testing Oils	261
Section 651. Approval or Condemnation After Test	262
Section 652. Oil Condemned May be Used for What Purposes	262
Section 653. Sale of Uninspected Oils	263
Section 654. Sale of Condemned Oils	263
Section 655. Penalty for Hindering Inspection	263
Section 656. Fees of Oil Inspectors	263
Section 657. Fees By Whom Paid	263
Section 658. Records and Reports	264
Section 659. Bonds	264
Section 660. Law to Apply, When	264
Section 661. Failure to Erase Marks or Brands—Penalty	265
Section 662. Misconduct of Inspector—Penalty	265
Section 663. Neglect or Misconduct of Duty—Penalty	265
Section 664. Imitation or Alteration of Inspector's Marks—Penalties ..	265
Section 665. Unlawful Importation and Sale of Oil	265
Section 666. Civil Liability for Unlawful Sales	266

	Page
Section 667. Adulteration	266
Section 668. Certain Oils to be Tested by Gravity Test	266
Section 669. Brands to be Affixed by Inspector	267
Section 670. Further Rules for Inspection	267
Section 671. Brands to be Affixed by Manufacturers and Dealers	268
Section 672. Recovery of Fines and Penalties	268
Section 673. Liability of Manufacturers and Wholesalers	269
Section 674. Prosecutions	269

ARTICLE VIa—REQUIRING GASOLINE TO BE KEPT IN RED TANKS.

Section 674a. Gasoline Kept in Red Tanks	269
Section 674b. Penalty	269

ARTICLE VII—OIL AND GAS GROSS PRODUCTION TAX LAW.

Section 675. Quarter Annual Reports—Oil, Gas, Mineral Production— Taxes—Regulations	270
Section 676. Delinquent Tax—Collection	272
Section 677. Purchasers' Reports—Enforcement of Regulations	272
Section 678. Reports of Shippers	273
Section 679. Distribution and Use of Taxes	273
Section 680. Validity of Provision	273
Section 681. Act Not Retroactive	274
Section 682. Effect of Invalid Parts of Act	274

ARTICLE VIII—MISCELLANEOUS, LEASING STATE LANDS, ETC.

Section 683. Ownership of Riverbed Mineral Rights, Oil and Gas	274
Section 684. Public Lands—Board of Affairs May Lease Lands of Public Institutions	275
Section 685. School Land—Commissioners of the Land Office—Leases ..	275
Section 686. Empowered to Segregate	275
Section 687. Term of Lease	276
Section 688. Provisions of Lease	276
Section 689. Rules Governing Leases	277
Section 690. Lessee Liable to Surface Owners	277
Section 691. Funds—Bonuses—Royalties	277
Section 692. Acts in Conflict Repealed	277
Section 693. Lien on Oil or Gas Well for Labor or Supplies	278

CHAPTER X—APPENDIX.

PLEADING AND PRACTICE—FORMS	279
1. Complaint—General	280
2. Complaint Against Railway Company	280
3. Complaint Against Telegraph or Telephone Company	280
4. Complaint Against Public Utility	280
5. Complaint Against Cotton Gins	280

	Page
6. Motion for New Trial not Required to Give Right to Appeal from Orders of Corporation Commission	280
7. Information Alleging Violation of Commission's Order—General....	281
8. Information Alleging Violation of Oil and Gas Conservation Order..	281
9. Citation on Information for Violation of Commission's Order	282
10. Subpoena	282
11. Answer to Contempt Information	283
12. Exceptions to Order of the Corporation Commission Assessing Fines..	283
13. Notice of Appeal to Supreme Court	283
14. Application for Supersedeas	284
15. Application for Supersedeas in the Supreme Court	284
16. Application to Certify Facts and Record to the Supreme Court	285
17. Certificate to Record on Appeal to Supreme Court	285
18. Application for Cotton Gin License	286
19. Application to Increase Rates, or be Relieved of Service	286
20. Application for Certificate of Convenience and Necessity—Telephone Companies	286
21. Application for Permission to Install Vacuum Pumps	286
22. Application for Permission to Exercise the Right of Eminent Domain—Railroad Company	287
23. Application for Permission to Exercise the Right of Eminent Domain—Oil Pipe Line	288
24. Application for Consent to Lease or Purchase Railroad Properties....	288
25. Statements for Domestic and Foreign Corporations	289

CORPORATION COMMISSION'S ORDERS HEREIN

Order No. 4.	Relating to Bulleting Trains, Clean Depots, etc.	45
Order No. 19.	Relating to Submitting Plans, Specifications, etc., of Depots	42
Order No. 101.	Regulating Charges for Service of All Transmission Companies	146
Order No. 117.	Physical Connection—Available Route	112
Order No. 118.	Relating to Reporting Accidents by All Steam and Electric Railways	113
Order No. 119.	Regulating Rates for Transmission of Messages of Telegraph Companies	146
Order No. 167.	Demurrage and Storage Rules	106
Order No. 168.	Rules Governing the Handling and Movement of Freight	109
Order No. 169.	Rules Governing the Furnishing of Cars for Loading..	110
Order No. 170.	Rules Governing the Reconsignment of Freight	112
Order No. 201.	Accounting—Transportation and Transmission Companies, Public Service Corporations (cited)	8
Order No. 216.	Discrimination, Long and Short Haul, not Permitted....	53
Order No. 265.	Requiring Public Service Corporations to Maintain General Offices in Oklahoma	56
Order No. 320.	Requiring Public Service Corporations to Charge Published Rates and Give Exact Change	60
Order No. 352.	Requiring Railroads to Print Amount of Fare on Tickets	65
Order No. 353.	Regulating Electric Wire Crossings Over Railroads	119

TABLE OF CONTENTS

xxvii

	Page
Order No. 367. Reports—Railways and Street Railways (cited)-----	8
Order No. 501. Prescribing Rules, Regulations and Requirements Govern- ing Movement and Handling of Freight and Assess- ment of Charges -----	112
Order No. 565. Requiring Heating of Passenger Cars, Steam and Electric Railways -----	63
Order No. 617. Sheriffs' Passenger Fare -----	55
Order No. 624. Requiring Telephone and Telegraph Companies to Give Preference to Messages of Public Officials -----	146
Order No. 642. Weighing of Cotton at Compresses -----	167
Order No. 699. Checking Baggage Rules -----	64
Order No. 755. Requiring Gas, Electric and Water Companies to Secure Approval of Corporation Commission Before Advancing Rates -----	153
Order No. 774. Accounting—Gas and Electric Utilities (cited)-----	154
Order No. 780. Supplemental to No. 168 (Rules Governing Handling and Movement of Freight) -----	110
Order No. 804. Purchasing Tickets Before Boarding Cars—Requiring Carriers to Open Car Doors -----	66
Order No. 845. Accounting—Oil Pipe Lines (cited) -----	8
Order No. 879. Accounting—Telephone Companies (cited) -----	8
Order No. 887. Accounting—Gas Pipe Lines (cited) -----	8
Order No. 919. Fees for Transcripts -----	5
Order No. 920. Oil Conservation Order, Healdton Field -----	238
Order No. 942. Supplemental to No. 804 (Excess Fare, Penalty) -----	66
Order No. 982. Prohibiting Carriers from Advancing Freight or Pas- senger Rates Without Approval of Commission -----	10
Order No. 1028. Requiring Gas Companies to Give Adequate Service ...	154
Order No. 1069. Supplemental to No. 168 (Rules Governing Handling and Movement of Freight) -----	110
Order No. 1295. Cotton Gins—Rates, Practices, etc. -----	164
Order No. 1297. Supplemental to No. 167 (Demurrage and Storage Rules) -----	108, 109
Order No. 1299. Oil and Gas Conservation—General Rules -----	255

TABLE OF CROSS REFERENCES TO SECTIONS.

CONSTITUTION.

Constitution	Herein	Constitution	Herein
Sec. 24 (32), Art. 2.....	Sec. 181	Sec. 24 (242), Art. 9.....	Sec. 55
Sec. 28 (36), Art. 2.....	Sec. 10	Sec. 25 (243), Art. 9.....	Sec. 9
Sec. 33 (182), Art. 6.....	Sec. 7	Sec. 26 (244), Art. 9.....	Sec. 47
Sec. 1 (217), Art. 9.....	Sec. 13	Sec. 27 (245), Art. 9.....	Sec. 50
Sec. 2 (218), Art. 9.....	Sec. 49	Sec. 28 (246), Art. 9.....	Sec. 11
Sec. 3 (219), Art. 9.....	Sec. 74	Sec. 29 (247), Art. 9.....	Sec. 12
Sec. 4 (220), Art. 9.....	Sec. 562	Sec. 30 (248), Art. 9.....	Sec. 59
Sec. 5 (221), Art. 9.....	Sec. 309	Sec. 32 (250), Art. 9.....	Sec. 56
Sec. 6 (222), Art. 9.....	Sec. 68	Sec. 33 (251), Art. 9.....	Sec. 54
Sec. 7 (223), Art. 9.....	Sec. 69	Sec. 34 (252), Art. 9.....	Sec. 15
Sec. 8 (224), Art. 9.....	Sec. 70	Sec. 35 (253), Art. 9.....	Sec. 16
Sec. 9 (225), Art. 9.....	Sec. 71	Sec. 36 (254), Art. 9.....	Sec. 297
Sec. 10 (226), Art. 9.....	Sec. 305	Sec. 37 (254a), Art. 9.....	Sec. 60
Sec. 11 (227), Art. 9.....	Sec. 72	Sec. 38 (255), Art. 9.....	Sec. 369
Sec. 12 (228), Art. 9.....	Sec. 73	Sec. 39 (256), Art. 9.....	Sec. 385
Sec. 13 (229), Art. 9.....	Sec. 57	Sec. 40 (257), Art. 9.....	Sec. 509
Sec. 14 (230), Art. 9.....	Sec. 261	Sec. 41 (258), Art. 9.....	Sec. 387
Sec. 15 (231), Art. 9.....	Sec. 1	Sec. 43 (260), Art. 9.....	Sec. 370
Sec. 16 (232), Art. 9.....	Sec. 2	Sec. 44 (261), Art. 9.....	Sec. 371
Sec. 17 (233), Art. 9.....	Sec. 3	Sec. 45 (262), Art. 9.....	Sec. 529
Sec. 18 (234 (1)), Art. 9.....	Sec. 17	Sec. 47 (264), Art. 9.....	Sec. 386
Sec. 18 (234 (2)), Art. 9.....	Sec. 18	Sec. 17 (282), Art. 10.....	Sec. 388
Sec. 18 (234 (3)), Art. 9.....	Sec. 19	Sec. 5a (336), Art. 18.....	Sec. 342
Sec. 18 (234 (4)), Art. 9.....	Sec. 20	Sec. 5b (337), Art. 18.....	Sec. 343
Sec. 18a (235), Art. 9.....	Sec. 4	Sec. 6 (338), Art. 18.....	Sec. 345
Sec. 18b (236), Art. 9.....	Sec. 14	Sec. 7 (338), Art. 18.....	Sec. 344
Sec. 19 (237), Art. 9.....	Sec. 21	Sec. 2 (345), Art. 20.....	Sec. 649
Sec. 20 (238), Art. 9.....	Sec. 43	Sec. 2 (349), Art. 22.....	Sec. 423
Sec. 21 (239), Art. 9.....	Sec. 44	Sec. 1 (350), Art. 23.....	Sec. 514
Sec. 22 (240), Art. 9.....	Sec. 45	Sec. 15 (379), Schedule.....	Sec. 5
Sec. 23 (241), Art. 9.....	Sec. 46		

REVISED LAWS OF OKLAHOMA, 1910.

R. L. 1910	Herein	R. L. 1910	Herein	R. L. 1910	Herein
Sec. 41	Sec. 268	Sec. 819	Sec. 111	Sec. 867	Sec. 154
Sec. 52	Sec. 358	Sec. 820	Sec. 112	Sec. 868	Sec. 155
Sec. 53	Sec. 359	Sec. 821	Sec. 113	Sec. 869	Sec. 156
Sec. 54	Sec. 360	Sec. 822	Sec. 114	Sec. 870	Sec. 157
Sec. 55	Sec. 361	Sec. 823	Sec. 115	Sec. 871	Sec. 524
Sec. 56	Sec. 362	Sec. 824	Sec. 116	Sec. 872	Sec. 525
Sec. 426	Sec. 348	Sec. 825	Sec. 117	Sec. 1189	Sec. 51
Sec. 538	Sec. 346	Sec. 826	Sec. 118	Sec. 1190	Sec. 52
Sec. 593	Sec. 349	Sec. 827	Sec. 119	Sec. 1191	Sec. 53
Sec. 598	Sec. 229	Sec. 828	Sec. 120	Sec. 1192	Sec. 27
Sec. 680	Sec. 350	Sec. 829	Sec. 121	Sec. 1193	Sec. 28
Sec. 783	Sec. 75	Sec. 830	Sec. 122	Sec. 1194	Sec. 29
Sec. 784	Sec. 76	Sec. 831	Sec. 123	Sec. 1195	Sec. 30
Sec. 785	Sec. 77	Sec. 832	Sec. 124	Sec. 1196	Sec. 31
Sec. 786	Sec. 78	Sec. 833	Sec. 125	Sec. 1197	Sec. 32
Sec. 787	Sec. 79	Sec. 834	Sec. 126	Sec. 1198	Sec. 33
Sec. 788	Sec. 80	Sec. 835	Sec. 127	Sec. 1199	Sec. 34
Sec. 789	Sec. 81	Sec. 836	Sec. 128	Sec. 1200	Sec. 35
Sec. 790	Sec. 82	Sec. 837	Sec. 129	Sec. 1201	Sec. 36
Sec. 791	Sec. 83	Sec. 838	Sec. 130	Sec. 1202	Sec. 37
Sec. 792	Sec. 84	Sec. 839	Sec. 131	Sec. 1203	Sec. 38
Sec. 793	Sec. 85	Sec. 840	Sec. 132	Sec. 1204	Sec. 39
Sec. 794	Sec. 86	Sec. 841	Sec. 133	Sec. 1205	Sec. 40
Sec. 795	Sec. 87	Sec. 842	Sec. 134	Sec. 1206	Sec. 41
Sec. 796	Sec. 88	Sec. 843	Sec. 135	Sec. 1207	Sec. 42
Sec. 797	Sec. 89	Sec. 844	Sec. 136	Sec. 1209	Sec. 389
Sec. 798	Sec. 90	Sec. 845	Sec. 137	Sec. 1210	Sec. 390
Sec. 799	Sec. 91	Sec. 846	Sec. 138	Sec. 1211	Sec. 391
Sec. 800	Sec. 92	Sec. 847	Sec. 139	Sec. 1212	Sec. 392
Sec. 801	Sec. 93	Sec. 848	Sec. 140	Sec. 1213	Sec. 393
Sec. 802	Sec. 94	Sec. 849	Sec. 141	Sec. 1214	Sec. 394
Sec. 803	Sec. 95	Sec. 850	Sec. 142	Sec. 1215	Sec. 395
Sec. 804	Sec. 96	Sec. 851	Sec. 143	Sec. 1216	Sec. 396
Sec. 805	Sec. 97	Sec. 852	Sec. 144	Sec. 1217	Sec. 398
Sec. 806	Sec. 98	Sec. 853	Sec. 145	Sec. 1218	Sec. 399
Sec. 807	Sec. 99	Sec. 854	Sec. 146	Sec. 1219	Sec. 400
Sec. 808	Sec. 100	Sec. 855	Sec. 310	Sec. 1221	Sec. 401
Sec. 809	Sec. 101	Sec. 856	Sec. 311	Sec. 1222	Sec. 402
Sec. 810	Sec. 102	Sec. 857	Sec. 312	Sec. 1223	Sec. 403
Sec. 811	Sec. 103	Sec. 858	Sec. 313	Sec. 1224	Sec. 404
Sec. 812	Sec. 104	Sec. 859	Sec. 314	Sec. 1225	Sec. 405
Sec. 813	Sec. 105	Sec. 860	Sec. 147	Sec. 1226	Sec. 407
Sec. 814	Sec. 106	Sec. 861	Sec. 148	Sec. 1227	Sec. 408
Sec. 815	Sec. 107	Sec. 862	Sec. 149	Sec. 1228	Sec. 409
Sec. 816	Sec. 108	Sec. 863	Sec. 150	Sec. 1229	Sec. 410
Sec. 817	Sec. 109	Sec. 864	Sec. 151	Sec. 1230	Sec. 411
Sec. 818	Sec. 110	Sec. 865	Sec. 152	Sec. 1231	Sec. 412

R. L. 1910	Herein	R. L. 1910	Herein	R. L. 1910	Herein
Sec. 1232	Sec. 413	Sec. 1337	Sec. 468	Sec. 1421	Sec. 215
Sec. 1233	Sec. 414	Sec. 1338	Sec. 469	Sec. 1422	Sec. 216
Sec. 1234	Sec. 415	Sec. 1339	Sec. 470	Sec. 1423	Sec. 218
Sec. 1235	Sec. 416	Sec. 1340	Sec. 471	Sec. 1424	Sec. 219
Sec. 1236	Sec. 417	Sec. 1341	Sec. 472	Sec. 1425	Sec. 220
Sec. 1237	Sec. 418	Sec. 1342	Sec. 473	Sec. 1426	Sec. 221
Sec. 1238	Sec. 419	Sec. 1343	Sec. 474	Sec. 1427	Sec. 222
Sec. 1239	Sec. 420	Sec. 1376	Sec. 158	Sec. 1428	Sec. 223
Sec. 1240	Sec. 421	Sec. 1377	Sec. 159	Sec. 1429	Sec. 224
Sec. 1241	Sec. 422	Sec. 1378	Sec. 160	Sec. 1430	Sec. 225
Sec. 1242	Sec. 424	Sec. 1379	Sec. 161	Sec. 1431	Sec. 227
Sec. 1243	Sec. 425	Sec. 1380	Sec. 162	Sec. 1432	Sec. 228
Sec. 1245	Sec. 428	Sec. 1381	Sec. 163	Sec. 1433	Sec. 230
Sec. 1246	Sec. 430	Sec. 1382	Sec. 164	Sec. 1434	Sec. 231
Sec. 1247	Sec. 431	Sec. 1383	Sec. 165	Sec. 1435	Sec. 232
Sec. 1248	Sec. 432	Sec. 1384	Sec. 166	Sec. 1436	Sec. 233
Sec. 1249	Sec. 433	Sec. 1385	Sec. 167	Sec. 1437	Sec. 234
Sec. 1250	Sec. 434	Sec. 1386	Sec. 168	Sec. 1438	Sec. 235
Sec. 1251	Sec. 435	Sec. 1387	Sec. 169	Sec. 1439	Sec. 237
Sec. 1252	Sec. 436	Sec. 1388	Sec. 170	Sec. 1440	Sec. 238
Sec. 1253	Sec. 437	Sec. 1389	Sec. 171	Sec. 1441	Sec. 239
Sec. 1254	Sec. 438	Sec. 1390	Sec. 172	Sec. 1442	Sec. 240
Sec. 1255	Sec. 439	Sec. 1391	Sec. 173	Sec. 1443	Sec. 241
Sec. 1256	Sec. 440	Sec. 1392	Sec. 174	Sec. 1444	Sec. 278
Sec. 1257	Sec. 441	Sec. 1393	Sec. 175	Sec. 1445	Sec. 321
Sec. 1258	Sec. 442	Sec. 1394	Sec. 176	Sec. 1446	Sec. 242
Sec. 1259	Sec. 443	Sec. 1395	Sec. 177	Sec. 1447	Sec. 243
Sec. 1260	Sec. 444	Sec. 1396	Sec. 178	Sec. 1448	Sec. 244
Sec. 1261	Sec. 445	Sec. 1397	Sec. 179	Sec. 1449	Sec. 245
Sec. 1262	Sec. 446	Sec. 1398	Sec. 180	Sec. 1450	Sec. 246
Sec. 1263	Sec. 447	Sec. 1399	Sec. 183	Sec. 1452	Sec. 252
Sec. 1264	Sec. 448	Sec. 1400	Sec. 184	Sec. 1453	Sec. 253
Sec. 1265	Sec. 449	Sec. 1401	Sec. 185	Sec. 1454	Sec. 254
Sec. 1266	Sec. 450	Sec. 1402	Sec. 186	Sec. 1455	Sec. 255
Sec. 1267	Sec. 451	Sec. 1403	Sec. 187	Sec. 1456	Sec. 256
Sec. 1268	Sec. 452	Sec. 1404	Sec. 188	Sec. 1457	Sec. 257
Sec. 1269	Sec. 453	Sec. 1405	Sec. 189	Sec. 1458	Sec. 258
Sec. 1270	Sec. 454	Sec. 1406	Sec. 190	Sec. 1482	Sec. 306
Sec. 1271	Sec. 455	Sec. 1407	Sec. 191	Sec. 1483	Sec. 307
Sec. 1272	Sec. 456	Sec. 1408	Sec. 192	Sec. 1484	Sec. 308
Sec. 1273	Sec. 457	Sec. 1409	Sec. 193	Sec. 2242	Sec. 58
Sec. 1274	Sec. 458	Sec. 1411	Sec. 205	Sec. 2536	Sec. 226
Sec. 1275	Sec. 459	Sec. 1412	Sec. 206	Sec. 2537	Sec. 293
Sec. 1276	Sec. 460	Sec. 1413	Sec. 207	Sec. 2538	Sec. 217
Sec. 1277	Sec. 461	Sec. 1414	Sec. 208	Sec. 2539	Sec. 48
Sec. 1278	Sec. 462	Sec. 1415	Sec. 209	Sec. 2578	Sec. 273
Sec. 1279	Sec. 463	Sec. 1416	Sec. 210	Sec. 2579	Sec. 274
Sec. 1280	Sec. 464	Sec. 1417	Sec. 211	Sec. 2623	Sec. 492
Sec. 1281	Sec. 465	Sec. 1418	Sec. 212	Sec. 2639	Sec. 279
Sec. 1335	Sec. 466	Sec. 1419	Sec. 213	Sec. 2661	Sec. 280
Sec. 1336	Sec. 467	Sec. 1420	Sec. 214	Sec. 2662	Sec. 281

TABLE OF CROSS REFERENCES TO SECTIONS

xxxii

R. L. 1910	Herein	R. L. 1910	Herein	R. L. 1910	Herein
Sec. 2665	Sec. 333	Sec. 3760	Sec. 519	Sec. 4334	Sec. 647
Sec. 2710	Sec. 282	Sec. 3761	Sec. 520	Sec. 4336	Sec. 650
Sec. 2711	Sec. 283	Sec. 3762	Sec. 521	Sec. 4337	Sec. 651
Sec. 2712	Sec. 284	Sec. 3769	Sec. 526	Sec. 4338	Sec. 652
Sec. 2713	Sec. 285	Sec. 3770	Sec. 527	Sec. 4339	Sec. 653
Sec. 2714	Sec. 286	Sec. 3771	Sec. 528	Sec. 4340	Sec. 654
Sec. 2715	Sec. 287	Sec. 3777	Sec. 298	Sec. 4341	Sec. 655
Sec. 2716	Sec. 288	Sec. 3778	Sec. 299	Sec. 4343	Sec. 658
Sec. 2721	Sec. 493	Sec. 3779	Sec. 300	Sec. 4344	Sec. 659
Sec. 2722	Sec. 494	Sec. 3865	Sec. 693	Sec. 4345	Sec. 660
Sec. 2723	Sec. 495	Sec. 3868	Sec. 301	Sec. 4346	Sec. 661
Sec. 2724	Sec. 496	Sec. 3869	Sec. 302	Sec. 4347	Sec. 662
Sec. 2725	Sec. 497	Sec. 3870	Sec. 303	Sec. 4349	Sec. 664
Sec. 2726	Sec. 498	Sec. 3871	Sec. 304	Sec. 4350	Sec. 665
Sec. 2727	Sec. 499	Sec. 4290	Sec. 587	Sec. 4351	Sec. 666
Sec. 2728	Sec. 500	Sec. 4292	Sec. 588	Sec. 4352	Sec. 667
Sec. 2729	Sec. 501	Sec. 4293	Sec. 591	Sec. 4353	Sec. 668
Sec. 2730	Sec. 502	Sec. 4294	Sec. 592	Sec. 4354	Sec. 669
Sec. 2731	Sec. 503	Sec. 4295	Sec. 593	Sec. 4355	Sec. 670
Sec. 2732	Sec. 504	Sec. 4296	Sec. 594	Sec. 4356	Sec. 671
Sec. 2733	Sec. 505	Sec. 4299	Sec. 595	Sec. 4357	Sec. 672
Sec. 2734	Sec. 506	Sec. 4300	Sec. 596	Sec. 4358	Sec. 673
Sec. 2735	Sec. 507	Sec. 4301	Sec. 597	Sec. 4359	Sec. 674
Sec. 2749	Sec. 267	Sec. 4302	Sec. 598	Sec. 4665	Sec. 475
Sec. 2756	Sec. 276	Sec. 4303	Sec. 599	Sec. 4666	Sec. 476
Sec. 2757	Sec. 277	Sec. 4304	Sec. 563	Sec. 4667	Sec. 477
Sec. 2762	Sec. 322	Sec. 4305	Sec. 564	Sec. 4668	Sec. 478
Sec. 2783	Sec. 275	Sec. 4306	Sec. 565	Sec. 4669	Sec. 479
Sec. 2787	Sec. 324	Sec. 4307	Sec. 566	Sec. 4670	Sec. 480
Sec. 2788	Sec. 325	Sec. 4308	Sec. 567	Sec. 4675	Sec. 482
Sec. 2791	Sec. 323	Sec. 4309	Sec. 568	Sec. 4677	Sec. 483
Sec. 2929	Sec. 15 A	Sec. 4310	Sec. 569	Sec. 4715	Sec. 484
Sec. 3137	Sec. 510	Sec. 4311	Sec. 570	Sec. 4717	Sec. 485
Sec. 3138	Sec. 511	Sec. 4312	Sec. 571	Sec. 4718	Sec. 486
Sec. 3139	Sec. 512	Sec. 4313	Sec. 572	Sec. 4719	Sec. 487
Sec. 3140	Sec. 513	Sec. 4314	Sec. 573	Sec. 6815	Sec. 289
Sec. 3183	Sec. 195	Sec. 4315	Sec. 574	Sec. 6975	Sec. 674a
Sec. 3184	Sec. 196	Sec. 4316	Sec. 575	Sec. 6976	Sec. 674b
Sec. 3185	Sec. 197	Sec. 4317	Sec. 576	Sec. 7538	Sec. 372
Sec. 3186	Sec. 198	Sec. 4319	Sec. 614	Sec. 7539	Sec. 373
Sec. 3187	Sec. 199	Sec. 4320	Sec. 615	Sec. 7540	Sec. 374
Sec. 3188	Sec. 200	Sec. 4321	Sec. 616	Sec. 7541	Sec. 375
Sec. 3189	Sec. 201	Sec. 4322	Sec. 617	Sec. 7543	Sec. 377
Sec. 3190	Sec. 202	Sec. 4323	Sec. 618	Sec. 7544	Sec. 378
Sec. 3191	Sec. 203	Sec. 4324	Sec. 619	Sec. 7546	Sec. 380
Sec. 3192	Sec. 204	Sec. 4326	Sec. 621	Sec. 7548	Sec. 382
Sec. 3623	Sec. 291	Sec. 4328	Sec. 625	Sec. 7549	Sec. 383
Sec. 3624	Sec. 292	Sec. 4329	Sec. 626	Sec. 7554	Sec. 376
Sec. 3625	Sec. 294	Sec. 4330	Sec. 627	Sec. 8220	Sec. 530
Sec. 3627	Sec. 295	Sec. 4331	Sec. 628	Sec. 8221	Sec. 531
Sec. 3628	Sec. 296	Sec. 4333	Sec. 646	Sec. 8222	Sec. 532

TABLE OF CROSS REFERENCES TO SECTIONS

R. L. 1910	Herein	R. L. 1910	Herein	R. L. 1910	Herein
Sec. 8223.....	Sec. 533	Sec. 8230.....	Sec. 540	Sec. 8237.....	Sec. 547
Sec. 8224.....	Sec. 534	Sec. 8231.....	Sec. 541	Sec. 8238.....	Sec. 548
Sec. 8225.....	Sec. 535	Sec. 8232.....	Sec. 542	Sec. 8239.....	Sec. 549
Sec. 8226.....	Sec. 536	Sec. 8233.....	Sec. 543	Sec. 8240.....	Sec. 550
Sec. 8227.....	Sec. 537	Sec. 8234.....	Sec. 544	Sec. 8241.....	Sec. 551
Sec. 8228.....	Sec. 538	Sec. 8235.....	Sec. 545	Sec. 8437.....	Sec. 426
Sec. 8229.....	Sec. 539	Sec. 8236.....	Sec. 546		

SESSION LAWS, 1910-11.

S. L. 1910-11	Herein	S. L. 1910-11	Herein
Sec. 1. Ch. 26.....	Sec. 488	Sec. 1. Ch. 71.....	Sec. 194
Sec. 2. Ch. 26.....	Sec. 489	Sec. 1. Ch. 104.....	Sec. 251
Sec. 3. Ch. 26.....	Sec. 490	Sec. 1. Ch. 119.....	Sec. 153
Sec. 4. Ch. 26.....	Sec. 491		

SESSION LAWS, 1913.

S. L. 1913	Herein	S. L. 1913	Herein
Sec. 1. Ch. 10.....	Sec. 22	Sec. 10. Ch. 99.....	Sec. 609
Sec. 2. Ch. 10.....	Sec. 23	Sec. 11. Ch. 99.....	Sec. 610
Sec. 3. Ch. 10.....	Sec. 24	Sec. 12. Ch. 99.....	Sec. 611
Sec. 4. Ch. 10.....	Sec. 25	Sec. 13. Ch. 99.....	Sec. 612
Sec. 5. Ch. 10.....	Sec. 26	Sec. 14. Ch. 99.....	Sec. 613
Sec. 1. Ch. 46.....	Sec. 522	Sec. 1. Ch. 114.....	Sec. 552
Sec. 2. Ch. 46.....	Sec. 523	Sec. 2. Ch. 114.....	Sec. 553
Sec. 1. Ch. 65.....	Sec. 7	Sec. 3. Ch. 114.....	Sec. 554
Sec. 2. Ch. 65.....	Sec. 7	Sec. 4. Ch. 114.....	Sec. 555
Sec. 3. Ch. 65.....	Sec. 7	Sec. 5. Ch. 114.....	Sec. 556
Sec. 1. Ch. 75.....	Sec. 683	Sec. 6. Ch. 114.....	Sec. 557
Sec. 1. Ch. 83.....	Sec. 481	Sec. 7. Ch. 114.....	Sec. 558
Sec. 1. Ch. 88.....	Sec. 427	Sec. 1. Ch. 130.....	Sec. 61
Sec. 2. Ch. 88.....	Sec. 429	Sec. 2. Ch. 130.....	Sec. 62
Sec. 1. Ch. 93.....	Sec. 326	Sec. 3. Ch. 130.....	Sec. 63
Sec. 2. Ch. 93.....	Sec. 327	Sec. 2. Ch. 152.....	Sec. 332
Sec. 3. Ch. 93.....	Sec. 328	Sec. 1. Ch. 168.....	Sec. 182
Sec. 4. Ch. 93.....	Sec. 329	Sec. 1. Ch. 198.....	Sec. 629
Sec. 5. Ch. 93.....	Sec. 330	Sec. 2. Ch. 198.....	Sec. 630
Sec. 1. Ch. 98.....	Sec. 589	Sec. 3. Ch. 198.....	Sec. 631
Sec. 2. Ch. 98.....	Sec. 590	Sec. 4. Ch. 198.....	Sec. 632
Sec. 1. Ch. 99.....	Sec. 600	Sec. 5. Ch. 198.....	Sec. 633
Sec. 2. Ch. 99.....	Sec. 601	Sec. 1. Ch. 207.....	Sec. 624
Sec. 3. Ch. 99.....	Sec. 602	Sec. 1. Ch. 248.....	Sec. 64
Sec. 4. Ch. 99.....	Sec. 603	Sec. 2. Ch. 248.....	Sec. 65
Sec. 5. Ch. 99.....	Sec. 604	Sec. 3. Ch. 248.....	Sec. 66
Sec. 6. Ch. 99.....	Sec. 605	Sec. 4. Ch. 248.....	Sec. 67
Sec. 7. Ch. 99.....	Sec. 606	(Senate Joint Resolution	
Sec. 8. Ch. 99.....	Sec. 607	No. 3, page 269).....	Sec. 71
Sec. 9. Ch. 99.....	Sec. 608		

SESSION LAWS, 1915.

S. L. 1915	Herein	S. L. 1915	Herein
Sec. 1, Ch. 24	Sec. 397	Sec. 5, Ch. 176	Sec. 355
Sec. 1, Ch. 25	Sec. 577	Sec. 6, Ch. 176	Sec. 356
Sec. 2, Ch. 25	Sec. 578	Sec. 7, Ch. 176	Sec. 357
Sec. 3, Ch. 25	Sec. 579	Sec. 1, Ch. 186	Sec. 363
Sec. 4, Ch. 25	Sec. 580	Sec. 2, Ch. 186	Sec. 364
Sec. 5, Ch. 25	Sec. 581	Sec. 3, Ch. 186	Sec. 365
Sec. 6, Ch. 25	Sec. 582	Sec. 4, Ch. 186	Sec. 366
Sec. 7, Ch. 25	Sec. 583	Sec. 5, Ch. 186	Sec. 367
Sec. 8, Ch. 25	Sec. 584	Sec. 6, Ch. 186	Sec. 368
Sec. 9, Ch. 25	Sec. 585	Sec. 1, Ch. 197	Sec. 634
Sec. 10, Ch. 25	Sec. 586	Sec. 2, Ch. 197	Sec. 635
Sec. 1, Ch. 30	Sec. 264	Sec. 3, Ch. 197	Sec. 636
Sec. 2, Ch. 30	Sec. 265	Sec. 4, Ch. 197	Sec. 637
Sec. 3, Ch. 30	Sec. 266	Sec. 5, Ch. 197	Sec. 638
Sec. 1, Ch. 61	Sec. 598	Sec. 6, Ch. 197	Sec. 639
Sec. 1, Ch. 74	Sec. 262	Sec. 7, Ch. 197	Sec. 640
Sec. 2, Ch. 74	Sec. 263	Sec. 8, Ch. 197	Sec. 641
Sec. 1, Ch. 78	Sec. 236	Sec. 9, Ch. 197	Sec. 642
Sec. 2, Ch. 96	Sec. 648	Sec. 11, Ch. 197	Sec. 643
Sec. 3, Ch. 96	Sec. 657	Sec. 12, Ch. 197	Sec. 644
Sec. 4, Ch. 96	Sec. 663	Sec. 1, Ch. 200	Sec. 331
Sec. 1, Ch. 148	Sec. 515	Sec. 1, Ch. 238	Sec. SA(a)
Sec. 2, Ch. 148	Sec. 516	Sec. 2, Ch. 238	Sec. SA(b)
Sec. 3, Ch. 148	Sec. 517	Sec. 6, Ch. 238	Sec. SA(c)
Sec. 4, Ch. 148	Sec. 518	Sec. 7, Ch. 238	Sec. SA(d)
Sec. 1, Ch. 161	Sec. 8a	Sec. 9, Ch. 238	Sec. SA(e)
Sec. 2, Ch. 161	Sec. 8b	Sec. 1, Ch. 247	Sec. 259
Sec. 1, Ch. 176	Sec. 351	Sec. 2, Ch. 247	Sec. 260
Sec. 2, Ch. 176	Sec. 352	Sec. 1, Ch. 262	Sec. 316
Sec. 3, Ch. 176	Sec. 353	Sec. 1, Ch. 269	Sec. 315
Sec. 1, Ch. 176	Sec. 354		

SESSION LAWS, 1916.

S. L. 1916	Herein	S. L. 1916	Herein
Sec. 1, Ch. 39	Sec. 675	Sec. 5, Ch. 39	Sec. 679
Sec. 2, Ch. 39	Sec. 676	Sec. 6, Ch. 39	Sec. 680
Sec. 3, Ch. 39	Sec. 677	Sec. 7, Ch. 39	Sec. 681
Sec. 4, Ch. 39	Sec. 678	Sec. 8, Ch. 39	Sec. 682

SESSION LAWS, 1917.

S. L. 1917	Herein	S. L. 1917	Herein
Sec. 1, Ch. 109.....	Sec. 347	Sec. 3, Ch. 225.....	Sec. 249
Sec. 1, Ch. 129.....	Sec. 334	Sec. 4, Ch. 225.....	Sec. 250
Sec. 2, Ch. 129.....	Sec. 335	Sec. 1, Ch. 230.....	Sec. 336
Sec. 1, Ch. 139.....	Sec. 6	Sec. 2, Ch. 230.....	Sec. 337
Sec. 1, Ch. 144.....	Sec. 384	Sec. 3, Ch. 230.....	Sec. 338
Sec. 1, Ch. 146.....	Sec. 379	Sec. 1, Ch. 237.....	Sec. 339
Sec. 2, Ch. 146.....	Sec. 381	Sec. 2, Ch. 237.....	Sec. 340
Sec. 3, Ch. 146.....	Sec. 406	Sec. 1, Ch. 240.....	Sec. 341
Sec. 1, Ch. 186.....	Sec. 290	Sec. 1, Ch. 253.....	Sec. 685
Sec. 1, Ch. 207.....	Sec. 559	Sec. 2, Ch. 253.....	Sec. 686
Sec. 2, Ch. 207.....	Sec. 560	Sec. 3, Ch. 253.....	Sec. 687
Sec. 3, Ch. 207.....	Sec. 620	Sec. 4, Ch. 253.....	Sec. 688
Sec. 4, Ch. 207.....	Sec. 645	Sec. 5, Ch. 253.....	Sec. 689
Sec. 5, Ch. 207.....	Sec. 656	Sec. 6, Ch. 253.....	Sec. 690
Sec. 6, Ch. 207.....	Sec. 561	Sec. 7, Ch. 253.....	Sec. 691
Sec. 1, Ch. 208.....	Sec. 622	Sec. 8, Ch. 253.....	Sec. 692
Sec. 2, Ch. 208.....	Sec. 623	Sec. 1, Ch. 270.....	Sec. 317
Sec. 1, Ch. 223.....	Sec. 684	Sec. 2, Ch. 270.....	Sec. 318
Sec. 1, Ch. 225.....	Sec. 247	Sec. 3, Ch. 270.....	Sec. 319
Sec. 2, Ch. 225.....	Sec. 248	Sec. 4, Ch. 270.....	Sec. 320

U. S. COMPILED STATUTES, 1916.

U. S. Comp. St. 1916	Herein	U. S. Comp. St. 1916	Herein
Sec. 8651.....	Sec. 269	Sec. 8653.....	Sec. 271
Sec. 8652.....	Sec. 270	Sec. 8654.....	Sec. 272

(A)

Adams Express Company v. Croninger (226 U. S. 491, 33 Sup. Ct. 148, 57 L. Ed. 314, 44 L. R. A. (N. S.) 257) -----	61
Aldredge v. School District No. 16, Payne Co. (10 Okla. 694, 65 Pac. 96) -----	93, 98
Anderson et al. v. Shawnee Compress Co., et al. (17 Okla. 231, 87 Pac. 315) -----	185
Arkansas, V. & W. Ry. Co. v. Witt (19 Okla. 262, 91 Pac. 897) -----	93
Arkansas Valley & W. Ry. Co. v. Bullen (31 Okla. 36, 119 Pac. 414) -----	93
Armstrong, Byrd & Co. v. I. C. R. Co. (26 Okla. 352, 109 Pac. 216) -----	68
Arthur v. Board of Com'rs of Choctaw County et al. (43 Okla. 174, 141 Pac. 1) -----	79
Atchison, T. & S. F. Ry. Co. v. Calhoun (18 Okla. 75, 89 Pac. 207; 11 Ann. Cas. 681) -----	63
Atchison T. & S. F. Ry. Co. v. Corporation Commission (22 Okla. 106, 98 Pac. 330) -----	14, 31, 33
Atchison, T. & S. F. Ry. Co. v. Corporation Commission (No. 6198) (unreported) -----	14
Atchison, T. & S. F. Ry. Co. v. Holmes (18 Okla. 92, 90 Pac. 22) -----	53
Atchison, T. & S. F. Ry. Co. et al. v. Homewood (39 Okla. 179, 134 Pac. 856) -----	69
Atchison, T. & S. F. Ry. Co. v. Lambert (32 Okla. 665, 123 Pac. 428) 8, 46, 168, -----	206
Atchison, T. & S. F. Ry. Co. v. Levick et al. (38 Okla. 746, 134 Pac. 874) -----	45, 280
Atchison, T. & S. F. Ry. Co. v. Love et al. (23 Okla. 192, 205; 99 Pac. 1081) -----	31, 36, 280, 285
Atchison, T. & S. F. Ry. Co. v. Love et al. (29 Okla. 534, 118 Pac. 263) -----	118
Atchison, T. & S. F. Ry. Co. v. Love et al. (29 Okla. 738, 119 Pac. 207) -----	33
Atchison, T. & S. F. Ry. Co. v. Miller et al (28 Okla. 109, 610; 114 Pac. 1104, 115 Pac. 770) -----	15, 37
Atchison, T. & S. F. Ry. Co. v. Rutherford et al. (29 Okla. 850, 140 Pac. 223) -----	73
Atchison, T. & S. F. Ry. Co. v. Sage (49 Kan. 524, 31 Pac. 140) -----	207
Atchison, T. & S. F. Ry. Co. et al. v. State (24 Okla. 824, 104 Pac. 1090) -----	13, 40
Atchison, T. & S. F. Ry. Co. et al. v. State (27 Okla. 329, 117 Pac. 328) -----	30, 33
Atchison, T. & S. F. Ry. Co. v. State (28 Okla. 12, 115 Pac. 1101) -----	31, 32
Atchison, T. & S. F. Ry. Co. et al. v. State (28 Okla. 465, 114 Pac. 722) -----	31, 33
Atchison, T. & S. F. Ry. Co. et al. v. State (47 Okla. 237, 148 Pac. 144) -----	40
Atchison, T. & S. F. Ry. Co. et al. v. State (47 Okla. 645, 150 Pac. 108) -----	32, 39, 285
Atchison, T. & S. F. Ry. Co. v. State (24 Okla. 834, 104 Pac. 1089) -----	13, 40
Atchison, T. & S. F. Ry. Co. v. State (26 Okla. 166, 109 Pac. 218) -----	13, 17, 283
Atchison, T. & S. F. Ry. Co. v. State (27 Okla. 820, 117 Pac. 330) -----	36
Atchison, T. & S. F. Ry. Co. v. State (28 Okla. 797, 115, Pac. 872) -----	14, 31, 32
Atchison, T. & S. F. Ry. Co. v. State (31 Okla. 767, 123 Pac. 1065) -----	15, 109
Atchison, T. & S. F. Ry. Co. v. State (47 Okla. 26, 165 Pac. 125) -----	25
Atchison, T. & S. F. Ry. Co. v. State (No. 8219, decided Feb. 12, 1918, Affirming Order No. 982; Okla. —, — Pac. —) -----	10
Atchison, T. & S. F. Ry. Co. v. State et al. (23 Okla. 210, 100 Pac. 11) -----	12, 18, 35, 36, 37, 38
Atchison, T. & S. F. Ry. Co. v. State et al. (23 Okla. 223, 100 Pac. 11) -----	36
Atchison, T. & S. F. Ry. Co. v. State et al. (23 Okla. 231, 100 Pac. 16) -----	18
Atchison, T. & S. F. Ry. Co. v. State et al. (23 Okla. 371, 125 Pac. 721) -----	25
Atchison, T. & S. F. Ry. Co. v. State et al. (23 Okla. 510, 101 Pac. 262) -----	12, 30, 35, 36, 37, 38, 56
Atchison, T. & S. F. Ry. Co. v. State et al. (21 Okla. 616, 104 Pac. 908) -----	13, 14, 48, 49

TABLE OF CASES

xxxvii

Atchison, T. & S. F. Ry. Co. v. State et al. (24 Okla. 807, 105 Pac. 352) -----31, 33, 114
 Atchison, T. & S. F. Ry. Co. v. State et al. (27 Okla. 420, 112 Pac. 1134) -- 14
 Atchison, T. & S. F. Ry. Co. v. State et al. (27 Okla. 565, 112 Pac. 1010) --13, 15
 Atchison, T. & S. F. Ry. Co. v. State et al. (28 Okla. 476, 114 Pac. 721) --37, 39
 Atchison, T. & S. F. Ry. Co. v. State et al. (28 Okla. 805) ----- 33
 Atchison, T. & S. F. Ry. Co. v. State et al. (31 Okla. 43, 119 Pac. 961) --25, 31
 Atchison, T. & S. F. Ry. Co. v. State et al. (31 Okla. 479, 122 Pac. 232) 8, 25, 281
 Atchison, T. & S. F. Ry. Co. v. State et al. (33 Okla. 105, 124 Pac. 57) ----- 110
 Atchison, T. & S. F. Ry. Co. v. State et al. (33 Okla. 158, 124 Pac. 56) --23, 110
 Atchison, T. & S. F. Ry. Co. v. State et al. (33 Okla. 371, 125 Pac. 721) ---- 14
 Atchison, T. & S. F. Ry. Co. v. State et al. (35 Okla. 532, 130 Pac. 940) -----23, 24, 25, 281
 Atchison, T. & S. F. Ry. Co. v. State ex rel West, Atty. Gen'l (40 Okla. 411, 138 Pac. 1026) -----14, 33, 117
 Atlantic Coast L. R. Co. v. Whorton (207 U. S. 328) ----- 14

(B)

Ballew v. Young et al. (24 Okla. 182, 188, 103 Pac. 623) ----- 201
 Barnes et al. v. Lynch et al. (9 Okla. 156, 59 Pac. 995) -----191, 197
 Bartlesville Elec. Co. v. Bartlesville Interurban Ry. Co. (26 Okla. 453, 109 Pac. 228) ----- 162
 Bes Line Con. Co. v. Schmidt (16 Okla. 429, 85 Pac. 711) -----203, 208
 Board of Com'rs. of Creek County v. Alexander (159 Pac. 311) ----- 273
 Board of Com'rs. of Garfield County v. Huett et al. (35 Okla. 713, 130 Pac. 927) -----223, 228
 Blackwell, E. & S. Ry. Co. v. Bebout (19 Okla. 63, 91 Pac. 877) ----- 93
 Blackwell, E. & S. W. Ry. Co. v. Gist (18 Okla. 516, 90 Pac. 889) -----90, 97
 Blackwell Milling and Elev. Co. v. Western U. Tel. Co. (17 Okla. 376, 89 Pac. 235) -----59, 61, 144
 Blincoe v. C., O. & W. Ry. Co. (16 Okla. 286, 83 Pac. 903) -----92, 93
 Breene, State ex rel., v. Howard (No. 9114, decided Feb. 12, 1918; — Okla. —, — Pac. —) -----231, 250
 Brewster v. Lanyon Zinc Co. (140 Fed. 807, 72 C. C. A. 213) ----- 278
 Brown et al. v. Wilson et al. (160 Pac. 94) ----- 277
 Brunner et al. v. Ft. Smith & W. Ry. Co. (33 Okla. 711, 127 Pac. 700) ----- 98
 Burke v. Malaby and Gossnel (14 Okla. 651, 78 Pac. 105) ----- 201
 Burton-Lingo Co. et al. v. S. E. Patton et al. (27 L. R. A. (N. S.) 420-N, 107 Pac. 679) ----- 24
 Butner v. W. U. Tel. Co. (2 Okla. 234, 37 Pac. 1087) ----- 145
 Butterfield v. U. S. (192 U. S. 500, 48 L. Ed. 537) ----- 13
 Byars v. State (2 Okla. Cr. 481, 102 Pac. 804) ----- 215

(C)

Carney et al. v. Taylor (4 Kan. 178) ----- 206
 Central of Georgia Ry. Co. v. Murphay (196 U. S. 194, 49 L. Ed. 444) ----- 13
 Chaddick et al. v. Lindsay (5 Okla. 616, 49 Pac. 940) ----- 101
 Chicago Bldg. & Mfg. Co. v. Lyon (10 Okla. 704, 64 Pac. 6) ----- 182
 Chicago, R. I. & Pac. Ry. Co. v. Armstrong (30 Okla. 134, 122 Pac. 952) --42, 68
 Chicago, R. I. & Pac. Ry. Co. v. Beatty (27 Okla. 844, 116 Pac. 171) ----- 102
 Chicago, R. I. & Pac. Ry. Co. v. Beatty (34 Okla. 321, 118 Pac. 367) ----- 102

Chicago, R. I. & Pac. Ry. Co. v. Beatty (42 Okla. 528, 141 Pac. 442).....	102
Chicago, R. I. & Pac. Ry. Co. v. Diggs (42 Okla. 183, 140 Pac. 1160).....	73
Chicago, R. I. & Pac. Ry. Co. v. Filson et al. (35 Okla. 89, 128 Pac. 298)	15, 16, 52
Chicago, R. I. & Pac. Ry. Co. v. Groves et al. (7 Okla. 315, 54 Pac. 484)....	208
Chicago, R. I. & Pac. Ry. Co. v. Logan, Snow & Co. (23 Okla. 707, 105 Pac. 343)	67
Chicago, R. I. & Pac. Ry. Co. v. Newburn (27 Okla. 9, 110 Pac. 1065).....	67
Chicago, R. I. & Pac. Ry. Co. et al. v. Spears (31 Okla. 469, 122 Pac. 228)...	61
Chicago, R. I. & Pac. Ry. Co. v. Stibbs (17 Okla. 97, 87 Pac. 293, 207 U. S. 602, 52 L. Ed. 359)	63
Chicago, R. I. & Pac. Ry. Co. et al. v. State (24 Okla. 832, 104 Pac. 1089)...	40
Chicago, R. I. & Pac. Ry. Co. et al. v. State (24 Okla. 835, 104 Pac. 1092)...	13
Chicago, R. I. & P. Ry. Co. et al. v. State (35 Okla. 220, 128 Pac. 903)....	14, 40
Chicago, R. I. & Pac. Ry. Co. et al. v. State (35 Okla. 224, 128 Pac. 904)....	14, 40
Chicago, R. I. & Pac. Ry. Co. et al. v. State (35 Okla. 229, 128 Pac. 907)....	14, 40
Chicago, R. I. & Pac. Ry. Co. et al. v. State and Citizens of Walters (— Okla. —; — Pac. —)	43
Chicago, R. I. & Pac. Ry. Co. et al. v. State et al. (24 Okla. 370, 103 Pac. 617)	36, 37, 38, 285
Chicago, R. I. & Pac. Ry. Co. v. State (35 Okla. 214, 128 Pac. 900).....	14, 40
Chicago, R. I. & Pac. Ry. Co. v. State (35 Okla. 233, 128 Pac. 908).....	14, 40
Chicago, R. I. & Pac. Ry. Co. v. State et al (23 Okla. 94, 105; 99 Pac. 901)	13, 14, 48, 49
Chicago, R. I. & Pac. Ry. Co. v. State et al. (24 Okla. 370, 103 Pac. 617)....	13, 14
Chicago, R. I. & Pac. Ry. Co. v. State and Baker (157 Pac. 1039).....	49, 58
Chicago, R. I. & Pac. Ry. Co. v. Territory 21 Okla. 329, 97 Pac. 265).....	13
Chicago, R. I. & Pac. Ry. Co. v. Walker (29 Okla. 856, 119 Pac. 993).....	73
Chicago, R. I. & Pac. Ry. Co. v. Wehrman (25 Okla. 147, 105 Pac. 328)....	61, 67
Chicago, R. I. & Pac. Ry. Co. v. Wright (39 Okla. 84, 134 Pac. 427).....	137
Choctaw, O. & G. Ry. Co. v. Burgess et al. (21 Okla. 653, 97 Pac. 270).....	65
Choctaw, O. & G. Ry. Co. v. Deparade (12 Okla. 367, 71 Pac. 629).....	118
Choctaw, O. & G. Ry. Co. v. Zwirtz (13 Okla. 411, 73 Pac. 941)	64
Church v. Atchison, T. & S. F. Ry. Co. (1 Okla. 44, 29 Pac. 530)	73
Citizens' Nat. Bank of Chickasha v. Mitchell et al. (24 Okla. 488, 103 Pac. 720)	221
Cleveland C. C. & St. L. Ry. Co. v. Illinois ex rel. Jett (177 U. S. 514).....	14
Coleord v. Dryfus (1 Okla. 228, 32 Pac. 329)	59
Collins v. Kaw City Mill & Elevator Co. et al. (26 Okla. 611, 110 Pac. 734) ..	192
Comanche Light & Power Co. v. Nix (156 Pac. 293).....	170
Cooper et al. v. Chicago, R. I. & Pac. Ry. Co. (31 Okla. 282, 12 Pac. 654)....	31
Cooper v. Ft. S. & W. Ry. Co. (23 Okla. 139, 99 Pac. 785).....	168
Cooper v. Ft. S. & W. Ry. Co. (23 Okla. 139, 118, 99 Pac. 785).....	201
Crone v. Duncan et al. (30 Okla. 517, 129 Pac. 734)	69
Cunningham v. Ponca City (27 Okla. 858, 113 Pac. 919)	97, 99
Cunningham Commission Co. v. Rorer Mill & Elevator Co. (25 Okla. 133, 105 Pac. 676)	207

(D)

Davis Bros. & Burke et al. v. LeFlore (26 Okla. 729, 110 Pac. 782).....	118
Davis Bros. & Burke et al. v. Sanders (26 Okla. 733, 110 Pac. 784).....	118

TABLE OF CASES

xxxix

Decker v. Atchison, T. & S. F. Ry. Co. (3 Okla. 558, 41 Pac. 610).....	65
Denver, W. & M. Ry. Co. v. Adkinson (28 Okla. 1, 119 Pac. 247).....	93
Derr et al. v. Fisher et al. (22 Okla. 126, 98 Pac. 978).....	185, 191
Dewey Portland Cement Co. v. Blunt (38 Okla. 182, 132 Pac. 659).....	137
Dickerson v. B. & M. Ry. Co. (43 Kan. 702, 23 Pac. 936).....	207
Duff et al. v. Keaton et al. (33 Okla. 92, 124 Pac. 291, 42 L. R. A. (n. s.), 427-N.)	27
Duluth & Okla. Oil Co. v. Love et al. (No. 246 Equity West. Dist. of Okla.)	248, 255

(E)

Earl Eakins v. State (7 Okla. Cr. 351, 123 Pac. 1035).....	283
Edwards v. Fargo & So. Ry. Co. (4 Dak. 549, 33 N. W. 100).....	189, 191, 196
Edwards v. Thrash et al. (26 Okla. 472, 109 Pac. 832).....	99
Enid & Anadarko Ry. Co. v. Wiley et al. (14 Okla. 310, 78 Pac. 96).....	92
Enid City Ry. Co. v. City of Enid (43 Okla. 778, 144 Pac. 617).....	143, 177
Express Rates, In re Intrastate (40 Okla. 237, 138 Pac. 382).....	37, 40
Frank Oil Co. v. Belleview Gas & Oil Co. et al. (29 Okla. 719, 119 Pac. 260).....	278

(F)

First National Bank v. Stribbling et al. (16 Okla. 41, 86 Pac. 512).....	183
First Nat'l. Bank of Tishomingo v. Latham (37 Okla. 286, 132 Pac. 891).....	207
Folley v. Chicago, R. I. & Pac. Ry. Co. (16 Okla. 32).....	67
Ft. Smith & W. Ry. Co. v. Chandler Cotton Oil Co. (25 Okla. 82, 106 Pac. 10)	59, 105
Ft. Smith & W. Ry. Co. et al. v. State (25 Okla. 866, 108 Pac. 407).....	14, 37, 38
Foster Lumber Co. v. Arkansas V. & W. Ry. Co. (20 Okla. 583, 95 Pac. 224).....	97
Freeman-Sipes Co. v. Corticelli Silk Co. (33 Okla. 266, 124 Pac. 1073).....	168
Freeman-Sipes Co. v. Corticelli Silk Co. (34 Okla. 229, 124 Pac. 972).....	202
Fretz v. City of Edmond (168 Pac. 800)	160, 220
Fruit Dispatch Co. v. Wood et al. (42 Okla. 79, 140 Pac. 1138).....	201, 202, 203

(G)

Gladson v. State of Minnesota (166 U. S. 427, 41 Law Ed. 1064).....	13, 14
Gulf, Colorado & S. F. Ry. Co. et al v. State et al. (23 Okla. 524, 101 Pac. 258)	12, 16
Gulf, Colorado & S. F. Ry. Co. et al. v. State (26 Okla. 761, 110 Pac. 651)	12, 30, 32
Gulf, C. & S. F. Ry. Co. v. State (33 Okla. 378, 125 Pac. 1103).....	22, 33, 114, 283
Guss v. Fed. Trust Co. (19 Okla. 138, 91 Pac. 1045).....	81
Guthrie Gas L. & I. Co. et al. v. Board of Education of City of Guthrie et al. (166 Pac. 128)	152, 153
Guthrie & Western Ry. Co. v. Faulkner (12 Okla. 532, 73 Pac. 290).....	90
Guthrie & Western Ry. Co. v. Rhoades (12 Okla. 565, 73 Pac. 1134).....	90
Guthrie & W Ry. Co. v. Rhoades (19 Okla. 21, 91 Pac. 1119, 21 L. R. A. (n.s.) 490)	81

(H)

Hale v. St. L. & S. F. Ry. Co. (39 Okla. 192, 134 Pac. 949)..... 207
 Hannibal & St. J. Ry. Co. v. Kanaley (39 Kan. 1, 17 Pac. 324).....206, 207
 Harris-Irby Cotton Co. v. State et al. (31 Okla. 367, 121 Pac. 642)...31, 35, 37, 285
 Harris-Irby Cotton Co. v. State et al. (31 Okla. 603, 122 Pac. 163)...15, 31, 33, 226
 Harrold et al. v. Wichita Falls & N. W. Ry. Co. (43 Okla. 362, 143 Pac. 210) 93
 Hathorn v. Natural Carbonic Gas Co. (23 L. R. A. (n. s.) 436)..... 236
 Hartwell v. Northern P. E. Co. (5 Dak. 463, 41 N. W. 732; 3 L. R. A. 342) 62
 Haynes v. Brown (18 Okla. 389, 89 Pac. 1124) 183
 Henry et al. v. Bartlesville G. & O. Co. (33 Okla. 473, 126 Pac. 725) 162, 241, 242
 Heymann v. Southern Ry. Co. (203 U. S. 270, 51 Law Ed. 178)..... 12
 Higbee v. Aetna Bldg & Loan Assn. (26 Okla. 327, 109 Pac. 236)...178, 181, 201
 Hine v. Wadlington et al. (26 Okla. 389, 109 Pac. 301).....9, 13, 41, 281
 Hine v. Wadlington et al. (27 Okla. 285, 111 Pac. 543).....13, 36, 280
 Hine v. Wadlington et al. (33 Okla. 173, 124 Pac. 29).....34, 37
 Houston & T. C. Ry. Co. et al. v. Mayes (201 U. S. 321, 50 L. Ed. 772)..... 13
 Huster v. Newkirk Creamery & Ice Co. (42 Okla. 440, 141 Pac. 790) 197, 198, 200

(I)

Independent Cotton Oil Co. v. Beacham (31 Okla. 384, 120 Pac. 969)..... 204
 Indian Territory Illuminating Oil Co. v. State (43 Okla. 307, 142 Pac. 997, 242 U. S. 552) 274
 In Re Intrastate Express Rates (40 Okla. 237, 138 Pac. 382).....37, 40

(J)

Joiner et al. v. Ardmore Loan & Trust Co. (33 Okla. 266, 124 Pac. 1073) 168, 201
 Jones v. Carnes (17 Okla. 470, 87 Pac. 652) 185

(K)

Kansas City S. Ry. Co. v. Love et al. (23 Okla. 224, 100 Pac. 22).....31, 36, 285
 Kansas City S. Ry. Co. v. State et al. (27 Okla. 806).....18, 37
 Kansas City S. Ry. Co. v. Redwine et al. (43 Okla. 610, 143 Pac. 847)..... 43
 Kansas City M. & O. Ry. Co. et al. v. State (24 Okla. 822, 104 Pac. 1091)...13, 40
 Kansas City M. & O. Ry. Co. v. State et al. (25 Okla. 715, 107 Pac. 912)...35, 38
 Kansas City M. & O. Ry. Co. v. Cox (25 Okla. 774, 108 Pac. 380)..... 102
 K. P. Ry. Co. v. Thacher et al. (17 Kan. 92).....208
 Keokuk Falls Imp. Co. et al. v. Kingsland Mfg. Co. (5 Okla. 32, 47 Pac. 484) 201
 Kibby v. Cudde, Hemann & Co. (11 Okla. 116, 437 Pac. 352).....202, 203
 Dr. Koch Vegetable Tea Co. v. Shumann et al. (42 Okla. 60, 139 Pac. 1133) 204
 Kolachny Co. v. Galbreath (26 Okla. 772, 110 Pac. 902)..... 278
 Kreps et al. v. Brady (37 Okla. 754, 133 Pac. 216) 137
 Kuhn v. Fairmount Coal Co. (215 U. S. 360, 51 L. Ed. 228) 278

(L)

Lacik et al. v. Colorado T. & M. Ry. Co. et al. (25 Okla. 282, 105 Pac. 655) 93
 Lafferty v. Evans (17 Okla. 217, 87 Pac. 304) 185
 Lake Shore & M. S. Ry. Co. v. Ohio ex rel. Lawrence (173 U. S. 285)..... 44

TABLE OF CASES

xli

Lane v. Choctaw, O. & G. Ry. Co. (19 Okla. 324, 91 Pac. 883) 63, 64, 65, 114, 115
 Large Oil Co. v. Howard (163 Pac. 537) 274
 Leader Printing Co. v. Lowry et al. (9 Okla. 89, 59 Pac. 242) 182
 Lee et al. v. Cameron and Paden Oil Co (— Okla. —; 169 Pac. 17) 176
 Lindsley v. Natural Carbonic Gas Co. (220 U. S. 61) 236
 Lusk et al. v. State et al. (47 Okla. 648, 150 Pac. 151) 16

(M)

Mangum, City of v. Todd (42 Okla. 343, 141 Pac. 266) 91
 Martin et al. v. Ter. ex rel. Gray (5 Okla. 188, 48 Pac. 106) 178
 Mayne v. Chicago, R. I. & Pac. Ry. Co. (12 Okla. 10, 69 Pac. 933) 62
 McAlester-Edwards Coal Co. et al. v. Trapp et al. (43 Okla. 510, 141 Pac. 794) 170
 City of McAlester v. McMurray (26 Okla. 517, 109 Pac. 838) 99
 McCook v. Bryan (4 Okla. 488, 46 Pac. 506) 119
 McKay v. City of Enid et al. (26 Okla. 275, 109 Pac. 520) 97
 McNeill v. Southern Ry. Co. (202 U. S. 543, 50 L. ed. 1142) 13
 Meyer, Auditor, v. Wells Fargo & Co., supra (223 U. S. 297, 56 L. ed. 445) 169
 Midland Valley R. Co. v. Bryant (37 Okla. 206, 131 Pac. 678) 119
 Midland Valley R. Co. v. Hardesty (38 Okla. 559, 134 Pac. 400) 86, 87
 Midland V. R. Co. et al. v. State (24 Okla. 817, 104 Pac. 1086) 13, 36, 40
 Midland V. R. Co. v. State et al. (29 Okla. 777, 119 Pac. 413) 42
 Midland V. R. Co. v. State et al. (35 Okla. 672, 130 Pac. 803) 18
 Midland Valley R. Co. et al. v. State et al. (38 Okla. 343, 746; 133 Pac. 27, 134 Pac. 874) 37, 39
 Mississippi R. Commission v. Illinois C. R. Co. (203 U. S. 335, 51 L. ed. 209) 14
 Missouri, K. & T. Ry. Co. v. Ashinger (162 Pac. 814) 55
 Missouri, K. & T. Ry. Co. v. Crowe (9 Kan. 496) 207
 Missouri, K. & T. Ry. Co. v. Davis (24 Okla. 677, 104 Pac. 31) 61
 Missouri, K. & T. Ry. Co. v. Hancock (26 Okla. 254, 109 Pac. 220) 61
 Missouri, K. & T. Ry. Co. v. Hancock & Boodbar (26 Okla. 265, 109 Pac. 223) 61
 Missouri, K. & T. Ry. Co. v. Town of Norfolk et al. (25 Okla. 325, 107 Pac. 172) 13, 14, 15, 16
 Missouri, K. & T. Ry. Co. v. Richardson (25 Okla. 640, 106 Pac. 1108) 14, 31, 47, 82
 Missouri, K. & T. Ry. Co. v. State (24 Okla. 331, 106 Pac. 613) 13, 14, 35, 37, 44
 Missouri, K. & T. Ry. Co. v. State (24 Okla. 832, 104 Pac. 1089) 13
 Missouri, K. & T. Ry. Co. v. State (26 Okla. 270, 109 Pac. 275) 13
 Missouri, K. & T. Ry. Co. v. State (28 Okla. 610, 115 Pac. 770) 14, 15
 Missouri, K. & T. Ry. Co. v. State et al. (25 Okla. 437, 106 Pac. 858) 14, 16
 Missouri, K. & T. Ry. Co. et al. v. State et al. (38 Okla. 401, 133 Pac. 35) 43
 Missouri, K. & T. Ry. Co. v. Town of Witcher et al. (25 Okla. 586, 106 Pac. 852) 13, 14, 15, 36
 Missouri, O. & G. Ry. Co. v. State et al. (28 Okla. 115, 113 Pac. 930) 15
 Missouri, O. & G. Ry. Co. v. State (29 Okla. 640, 119 Pac. 117) 14, 47, 48, 49, 176
 Missouri, O. & G. Ry. Co. v. State et al. (156 Pac. 1155) 15, 44
 Missouri P. Ry. Co. v. State of Nebraska ex rel. Bd. of Transportation (164 U. S. 403, 41 L. Ed. 489) 13

Missouri P. Ry. Co. v. State of Nebraska (217 U. S. 196, 54 L. Ed. 727).....	13, 49
Mitchell et al. v. Tulsa Water Co. (21 Okla. 243, 95 Pac. 961).....	159, 160
Moore v. Atchison, T. & S. F. Ry. Co. (26 Okla. 682, 110 Pac. 1059).....	66.
Muskogee Electric Traction Co. v. McIntire (37 Okla. 684, 133 Pac. 213)...	63
Myatt v. Ponca City Land & Imp. Co. (14 Okla. 189, 78 Pac. 185).....	201

(N)

National Bank of Commerce v. Earle (2 Okla. 617, 39 Pac. 391).....	191
Nelson v. Deming Inv. Co. (21 Okla. 610, 96 Pac. 742).....	201, 202, 203
Nicoll et al. v. Midland Savings etc. Co. (21 Okla. 591, 96 Pac. 744).....	201
Noble v. Atchison, T. & S. F. Ry. Co. (4 Okla. 534, 46 Pac. 483).....	65, 67
Noble State Bank v. Haskell et al. (22 Okla. 48, 97 Pac. 590).....	176, 177
North Mo. R. R. Co. v. Akers (4 Kan. 453, 96 Am. Dec. 183).....	206

(O)

O'Day et al. v. Jacob Ambraum et al. (15 L. R. A. (ns) 484-n, 92 Pac. 421)	24
Ohio Oil Co. v. Indiana (177 U. S. 190, 202).....	236
Oklahoma A. & M. College v. Willis et al. (6 Okla. 593, 52 Pac. 921)....	177, 178
Oklahoma City v. Okla. Ry. Co. (20 Okla. 1, 93 Pac. 48, 16 L. R. A. (ns) 651-n).....	8
Oklahoma City v. Shields (22 Okla. 265, 100 Pac. 559).....	176, 177, 178
Oklahoma Gin Co. v. State (158 Pac. 629)	15, 226
Oklahoma Natural Gas Co. v. State ex rel. West (47 Okla. 601, 150 Pac. 475)	243, 245, 248
Oklahoma Portland Cement Co. v. Anderson et al. (28 Okla. 650, 115 Pac. 767)	186
Oklahoma Ry. Co. v. Powell et al. (33 Okla. 737, 127 Pac. 1080)	15, 17, 143, 159
Oklahoma Ry. Co. v. St. Joseph's Parochial School et al. (33 Okla. 755, 127 Pac. 1087).....	14, 17, 51, 143
Oklahoma Ry. Co. v. State (33 Okla. 752, 127 Pac. 1085).....	22, 26
Oklahoma Ry. Co. v. State (35 Okla. 463, 130 Pac. 151).....	37, 39
Overholser et al. v. Okla. Interurban Trac. Co. (29 Okla. 571, 119 Pac. 127)	91, 143, 158
Overstreet & Rock Island Implement Co. v. Citizens Bank (12 Okla. 383, 72 Pac. 379)....	185, 200
Ozark Marble Co. v. Still (24 Okla. 559, 103 Pac. 586).....	207

(P)

Mayor and Councilmen of City of Pawhuska v. Pawhuska Oil & Gas Co. et al. (28 Okla. 563, 115 Pac. 353).....	242
Pawhuska, City of, v. Pawhuska Oil & Gas Co. et al. (166 Pac. 1058)	15, 153, 154, 159, 162
Pawhuska Oil & Gas Co. v. City of Pawhuska et al. (17 Okla. 312, 148 Pac. 118)	154
People's National Bank et al. v. Board of Com'rs of Kingfisher County et al. (24 Okla. 115, 104 Pac. 55)	183, 185
Petrie v. Coulter (10 Okla. 257, 61 Pac. 1058)	182
Putt, Ex Parte (38 Okla. 572, 134 Pac. 53)	143, 159

TABLE OF CASES

xliii

Pioneer Tel. & Tel. Co. v. City of Bartlesville (40 Okla. 583, 139 Pac. 694)	21, 42
Pioneer Tel. & Tel. Co. v. State (167 Pac. 995).....	19, 41
Pioneer Tel. & Tel. Co. v. State (40 Okla. 417, 138 Pac. 1033).....	14, 21, 22, 23, 31, 35, 49, 51, 284
Pioneer Tel. & Tel. Co. v. State et al. (28 Okla. 412, 133 Pac. 476).....	19
Pioneer Tel. & Tel. Co. v. State et al. (33 Okla. 724, 127 Pac. 1073).....	14, 162
Pioneer Tel. & Tel. Co. v. State et al. (Grant County case) (38 Okla. 554, 134 Pac. 398, 150 Pac. 151).....	49, 144, 176, 177
Pioneer Tel. & Tel. Co. v. State et al. (43 Okla. 827, 144 Pac. 599).....	41
Pioneer Tel. & Tel. Co. v. State et al. (45 Okla. 31, 144 Pac. 1060).....	19
Pioneer Tel. & Tel. Co. v. Westenhaver et al. (23 Okla. 226, 99 Pac. 1019)	36, 37, 41, 42
Pioneer Tel. & Tel. Co. v. Westenhaver et al. (29 Okla. 429, 118 Pac. 354)	20, 37, 42
Price v. Winnebago National Bank (14 Okla. 268, 79 Pac. 105).....	192
Pruitt v. Oklahoma Steam Baking Co. et al. (39 Okla. 509, 135 Pac. 730).....	509

(R)

Ravia Granite Ballast Co. v. Wilson (22 Okla. 689, 98 Pac. 949).....	207
Richardson et al. v. Harsha (22 Okla. 405, 98 Pac. 897).....	177
Rogers et al. v. Bonnett et al. (2 Okla. 553, 560, 37 Pac. 1078).....	192
Ruhl-Koblegard Co. v. Gillespie (10 L. R. A. (ns) 305-n, 56 S. E. 898).....	24

(S)

St. Clair v. Cox (106 U. S. 350, 27 L. Ed. 222).....	207
St. Louis, I. M. & S. Ry. Co. v. Freeland (39 Okla. 60, 134 Pac. 47).....	75, 77
St. Louis, I. M. & S. Ry. Co. v. Lewis et al. (28 Okla. 453, 114 Pac. 702, 812)	14, 16
St. Louis, I. M. & S. Ry. Co. et al. v. State (24 Okla. 830, 104 Pac. 1092)	13, 40
St. Louis, I. M. & S. Ry. Co. v. State (28 Okla. 372, 111 Pac. 399, 114 Pac. 1096)	37, 42, 44
St. Louis, I. M. & S. Ry. Co. v. State (31 Okla. 509, 122 Pac. 217).....	14, 31, 42, 43
St. Louis & S. F. R. Co. v. Allen (31 Okla. 248, 120 Pac. 1090).....	71
St. Louis & S. F. R. Co. v. Bilby (35 Okla. 454, 130 Pac. 127).....	15
St. Louis & S. F. R. Co. v. Brown (32 Okla. 483, 122 Pac. 136).....	119
St. Louis & S. F. R. Co. v. Cannon & Son et al. (31 Okla. 476, 122 Pac. 231)	22, 23, 25, 281, 283
St. Louis & S. F. R. Co. v. Clark (17 Okla. 562, 87 Pac. 430).....	207, 208
St. Louis & S. F. R. Co. v. Close (42 Okla. 105, 140 Pac. 1176).....	58, 73
St. Louis & S. F. R. Co. v. Copeland (23 Okla. 837, 102 Pac. 104).....	61, 68
St. Louis & S. F. R. Co. v. Corporation Commission (35 Okla. 166, 128 Pac. 496)	14, 118
St. Louis & S. F. R. Co. v. Cox, Peery & Murray (40 Okla. 258, 138 Pac. 144)	62
St. Louis & S. F. R. Co. v. Coyle et al. (29 Okla. 201, 115 Pac. 769).....	23, 24, 26, 283
St. Louis & S. F. R. Co. v. Coyle et al. (31 Okla. 813, 123 Pac. 1045).....	23, 37, 40
St. Louis & S. F. R. Co. v. Cross (171 Fed. 480).....	205
St. Louis & S. F. R. Co. v. Davis (37 Okla. 340, 132 Pac. 337).....	101

St. Louis & S. F. R. Co. v. Dickerson et al. (29 Okla. 386, 118 Pac. 140)-----	64
St. Louis & S. F. R. Co. v. Dreyfus et al. (37 Okla. 492, 132 Pac. 491)-----	70
St. Louis & S. F. R. Co. v. Gosnell (23 Okla. 588, 101 Pac. 1126; 22 L. R. A. 892)-----	63
St. Louis & S. F. R. Co. v. Haywood et al. (25 Okla. 417, 106 Pac. 862) 14, 48,	49
St. Louis & S. F. R. Co. v. Higgs (42 Okla. 171, 141 Pac. 10)-----	118, 120
St. Louis & S. F. R. Co. v. Johnson (25 Okla. 833, 108 Pac. 378)-----	65, 66, 67
St. Louis & S. F. R. Co. v. Lewis et al. (28 Okla. 453, 114 Pac. 702, 812) 14,	16
St. Louis & S. F. R. Co. v. Loftis (25 Okla. 496, 106 Pac. 824)-----	36
St. Louis & S. F. R. Co. v. Love et al. (29 Okla. 523, 118 Pac. 259)-----	14, 31, 118
St. Louis & S. F. R. Co. v. McGivney (19 Okla. 361, 91 Pac. 693)-----	73
St. Louis & S. F. R. Co. v. Mitter et al. (31 Okla. 801, 123 Pac. 1047)-----	
-----	14, 15, 31, 32, 37, 280
St. Louis & S. F. R. Co. v. Newell et al. (25 Okla. 502, 106 Pac. 818)-----	14, 18, 37
St. Louis & S. F. R. Co. v. Nichols (39 Okla. 522, 136 Pac. 159 148 Pac. 1001)-----	63
St. Louis & S. F. R. Co. v. Oliver (17 Okla. 589, 87 Pac. 423)-----	92
St. Louis & S. F. R. Co. v. Phillips (17 Okla. 264, 87 Pac. 470)-----	61
St. Louis & S. F. R. Co. v. Reynolds et al. (26 Okla. 804, 110 Pac. 668, 138 Am. St. 1003-N.)-----	13
St. Louis & S. F. R. Co. v. Smith (41 Okla. 163, 137 Pac. 714)-----	118, 119
St. Louis & S. F. R. Co. v. Smith (41 Okla. 314, 137 Pac. 357)-----	119
St. Louis & S. F. R. Co. et al v. State (24 Okla. 826, 104 Pac. 1038)-----	13, 40
St. Louis & S. F. R. Co. et al v. State (24 Okla. 828, 104 Pac. 1087)-----	13, 40
St. Louis & S. F. R. Co. v. State et al. (24 Okla. 805, 105 Pac. 351)-----	31, 33, 114
St. Louis & S. F. R. Co. v. State et al. (25 Okla. 420, 106 Pac. 818)-----	14, 49
St. Louis & S. F. R. Co. v. State et al. 26 Okla. 62, 107 Pac. 929)-----	
-----	10, 12, 13, 23, 25, 105, 109, 280, 281
St. Louis & S. F. R. Co. v. State et al. (26 Okla. 764, 110 Pac. 759)-----	24, 25, 281
St. Louis & S. F. R. Co. State et al. (27 Okla. 424, 112 Pac. 980)-----	13, 49
St. Louis & S. F. R. Co. v. State et al. (27 Okla. 426)-----	49
St. Louis & S. F. R. Co. v. State et al. (28 Okla. 802, 115 Pac. 874)-----	14, 31, 33
St. Louis & S. F. R. Co. v. Steele (37 Okla. 536, 133 Pac. 209)-----	120
St. Louis & S. F. R. Co. v. Sutton (Tahlequah Depot Case) 29 Okla. 553, 563, 119 Pac. 123)-----	14, 42
St. Louis & S. F. R. Co. v. Swearingen et al. (31 Okla. 785, 123 Pac. 1122)-----	71
St. Louis & S. F. R. Co. v. Travelers' Corp. of Oklahoma et al. (47 Okla. 374, 118 Pac. 166)-----	15, 39, 65, 66
St. Louis & S. F. R. Co. v. Town of Troy et al. (25 Okla. 749, 108 Pac. 753) 14,	15
St. Louis & S. F. R. Co. v. Williams et al. (25 Okla. 662, 107 Pac. 428)-----	
-----	12, 30, 32, 36, 42, 280
St. Louis & S. F. R. Co. v. Williams (31 Okla. 450, 122 Pac. 152)-----	119
St. Louis & S. F. R. Co. v. Young (30 Okla. 588, 120 Pac. 999)-----	61
St. Louis & S. F. R. Co. v. Zalondek et al. (28 Okla. 716, 115 Pac. 867)-----	47, 49
St. P. & Sioux City R. R. Co. v. Covell (2 Dak. 183, 11 N. W. 106)-----	93
Sanders v. Chicago, R. I. & P. Ry. Co. (10 Okla. 325, 61 Pac. 1075)-----	65
Schmidt v. Great Northern Ry. Co. (4 Wisconsin Railroad Commission Reports, p. 121)-----	15
Seymour v. Oklahoma City et al. (38 Okla. 547, 134 Pac. 45)-----	91
Shaller v. Marks et al. (211 Fed. 139)-----	277, 278
Shawnee Gas & Electric Co. v. State ex rel. Shawnee City Waterworks et al. (31 Okla. 505, 122 Pac. 222)-----	23, 31, 226

TABLE OF CASES

xlv

Shawnee Gas & Electric Co. v. Corporation Commission (35 Okla. 454,
130 Pac. 127) -----15, 49, 162, 226

Shultise v. Town of Taloga et al. (42 Okla. 65, 140 Pac. 1190)----- 91

Smith Rolfe Co. v. Wallace (41 Okla. 643, 139 Pac. 248)-----168, 289

Smock v. Farmers' Union State Bank (22 Okla. 825, 98 Pac. 945)----- 189

So. Kansas Ry. Co. et al v. Oklahoma City (12 Okla. 82, 69 Pac. 1050)---98, 122

So. McAlester-Eufaula Tel. Co. v. State ex rel. Baker-Reidt Mere. Co. et al.
(25 Okla. 524, 106 Pac. 962)-----12, 159

Sparks v. Okla. Constr. Co. (19 Okla. 55, 91 Pac. 839)----- 81

State Life Ins. Co. v. Okla. City Nat. Bank et al. (21 Okla. 823, 97 Pac.
574) -----201, 202, 205

State Nat. Bank of Oklahoma City v. Wood (43 Okla. 251, 142 Pac. 1002)--- 71

State ex rel. Breene v. Howard (No. 9114, decided Feb. 12, 1918; — Okla.
—, — Pac. —) -----231, 250

State v. 18 Casks of Beer et al. (24 Okla. 786, 104 Pac. 1093)----- 12

State v. W. H. Coyle et al (7 Okla. Cr. 50, 122 Pac. 243)-----221, 227

State v. W. H. Coyle et al. (8 Okla. Cr. 686, 120 Pac. 216)-----221

State v. Prairie Oil & Gas Co. (167 Pac. 756)----- 187

Stepp et al. v. Wichita Falls & N. W. Ry. Co. (29 Okla. 71, 116 Pac. 1012) 14, 45

Stillwater Board of Education v. Aldredge et al (13 Okla. 205, 73 Pac.
1104) ----- 98

Stratford v. Midland V. R. Co. (36 Okla. 127, 128 Pac. 98)-----75, 77

Superior Oil & Gas Co. v. Mehlin (25 Okla. 809, 108 Pac. 545)----- 278

Swofford Bros. Dry Goods Co. v. Owen et al. (37 Okla. 616, 133 Pac. 193)--- 192

(T)

Taylor v. Carney et al. (4 Kan. 542)----- 206

Territory ex rel. v. De Wolf et al. (13 Okla. 454, 74 Pac. 98) ----- 162

Territory v. Haines et al. (22 Okla. 890, 99 Pac. 911)-----220, 221

Territory v. Long Bell Lumber Co. et al. (22 Okla. 890, 99 Pac. 911)---220, 221

Territory v. Okla. Mill & Elevator Co. et al. (22 Okla. 890, 99 Pac. 911) 220, 221

Thomas v. Western U. Tel. Co. (30 Okla. 63, 118 Pac. 370)----- 145

Thompson et al. v. Rearick (33 Okla. 283, 124 Pac. 951)----- 91

Title Guaranty & Surety Co. v. Slinker (42 Okla. 811, 143 Pac. 41)----- 209

Titsworth v. State (2 Okla. Cr. 268, 101 Pac. 288)-----136, 137

Tonkawa Milling Co. v. Town of Tonkawa (15 Okla. 672, 83 Pac. 915)----- 97

Topeka Paper Co. v. Okla. City Pub. Co. (7 Okla. 220, 54 Pac. 455)---185, 192, 197

Town of Sapulpa et al. v. Sapulpa Oil & Gas Co. et al. (22 Okla. 347, 97
Pac. 1007) ----- 159

Tulsa Street Ry. Co. v. Oklahoma Union Trac. Co. (27 Okla. 339, 113 Pac.
180) ----- 158

Tulsa Street Ry. Co. v. State (26 Okla. 559, 110 Pac. 373) -----14, 18

Tuttle v. Jefferson Power & Improvement Co. (31 Okla. 710, 122 Pac.
1102) -----91, 99

Twin Valley Tel. Co. v. Mitchell et al. (27 Okla. 388, 113 Pac. 914)---13, 19, 144

(U)

U. S. ex rel. v. Choctaw, O. & G. Ry. Co. (3 Okla. 502, 41 Pac. 729)-----81, 90

U. S. v. Ohio Oil Co. (234 U. S. 548, 58 L. ed. 1459)-----231, 233

United States Express Co. v. State et al. (33 Okla. 370, 125 Pac. 448)---14, 40

United States Express Co. v. State et al. (47 Okla. 656, 150 Pac. 178)-----17, 39

(V)

Van Cise v. Merchants National Bank (4 Dak. 485, 33 N. W. 897)----- 183
 Verdigris River Land Co. v. Stanfield et al. (25 Okla. 265, 105 Pac. 337) 201, 202

(W)

Wagner v. Minnie Harvester Co. (25 Okla. 558, 106 Pac. 969)-----220, 227
 Webster v. Webster Refining Co. (36 Okla. 168, 128 Pac. 261)-----175, 176
 Wells Fargo & Co., American Express Co., United States Express Co.,
 Pacific Express Co. v. State (28 Okla. 573, 115 Pac. 1124)-----14, 40
 Wells Fargo & Co. Express et al. v. State (45 Okla. 115, 144 Pac. 1021)---35, 284
 West v. Kansas Natural Gas. Co. (221 U. S. 229, 55 L. ed. 716)---236, 239, 241
 Western Coal & Mining Co. et al. v. Osborne (30 Okla. 235, 119 Pac. 973)--- 204
 Western Roofing Tile Co. v. Deiber (30 Okla. 347, 120 Pac. 579)----- 182
 Western U. Tel. Co. v. Blackwell M. & E. Co. (24 Okla. 535, 103 Pac. 717)--- 145
 Western Union Tel. Co. v. Chouteau (28 Okla. 664, 115 Pac. 879)-----144, 145
 Western U. Tel. Co. v. Coyle (24 Okla. 740, 104 Pac. 367)----- 145
 Western Union Telegraph Co. v. Hollis (28 Okla. 613, 115 Pac. 775)----- 61
 Western U. Tel. Co. v. Mexican Agr. Land Co. (31 Okla. 528, 122 Pac. 595)--- 145
 Western Union Tel. Co. v. Reeves (34 Okla. 468, 126 Pac. 216)-----144, 145
 Western U. Tel. Co. v. Sights et al. (34 Okla. 461, 126 Pac. 234)----- 145
 Western Union Telegraph Co. v. State (31 Okla. 415, 121 Pac. 1069)-----
 -----14, 20, 37, 145
 Western Union Telegraph Co. v. State et al. (35 Okla. 209, 128 Pac. 1132)---14, 37
 Whaley v. Choctaw Ry. Co. (4 Okla. 470, 46 Pac. 506)----- 81
 Wheat v. Platte City & Ft. D. R. Co. et al. (4 Kan. 370)----- 206
 White v. Farmers High Line Canal Reservoir Co. (31 L. R. A. 829)----- 236
 White, v. Missouri, K. & T. Ry. Co. (26 Okla. 232, 110 Pac. 48)----- 116
 White Sewing Mach. Co. v. Peterson et al. (23 Okla. 361, 100 Pac. 513)--- 203
 Willoughby, Receiver, v. Kelly (19 Okla. 123, 91 Pac. 874)----- 197
 Wisconsin M. & P. R. Co. v. Jacobson (179 U. S. 287, 45 Law ed. 194)----- 13
 Wolverine Oil Co. in re Gross Production Tax of, (154 Pac. 362)----- 274



CHAPTER 1.
General Constitutional Provisions, Etc.

ARTICLE 1.

GENERAL PROVISIONS.

- Sec.
1. Commission—Terms—Vacancy filled by appointment.
 2. Qualifications of commissioners.
 3. Oath to be taken and subscribed to—Provisions.
 4. Organization of commission—Chairman—Secretary—Quorum.
 5. Salary of commissioners
 6. Offices and employes.
 7. Annual reports.
 8. Fees.
 - (a) Fees for transcripts.
 - (b) Fees for refunds.
 - 8A. Custody and disposal of funds.
 - (a) State depository; State treasurer.
 - (b) Fees and penalties collected by State officers; payment to State.
 - (c) Deposits; how credited; payments.
 - (d) Moneys belonging to general revenue funds; departments to report to State Auditor.
 - (e) Penalty for violation.
 9. Annual reports to the Governor; recommendations as to supervision and taxation of corporations.
 10. Records of corporations; examinations.
 11. Inspection of books and papers; penalty.
 12. Physical valuation; cost; outstanding indebtedness, etc.; when due; interest; salaries of officers and employes of public service corporations.
 13. Terms "corporations," "company," "charter," and "license."
 14. Term "company."
 15. Terms "transportation company," "rate," "charge," "regulation," "transmission company," "freight," "public service corporation," "person," "bond," and "frank" defined.
 - 15A. Person includes corporation.
 16. Sections of constitution subject to be amended or repealed by the Legislature; when.
 17. Commission; its power and duty; fix rates and charges and classifications and rules; correct abuses; prevent discrimination and extortion; to require service, facilities and conveniences.
 18. Inspection of books and papers; reports and statements; physical condition; security and accommodation of the public; regulations to prevent discrimination and extortion between connecting lines.
 19. Notice required; evidence; objections; hearings, etc.
 20. Authority of commission; local franchises; arbitration; mediation.
 21. Authority of a Court of Record; administer oaths; compel attendance of witnesses and production of papers; punish for contempt; pending appeal no penalty to be imposed.
 22. Commission vested with power of Court of Record; refunds.
 23. Judgment; collection; refunds.
 24. Appealed orders; additional judgment for expenses of commission; refunds.
 25. Right of appeal; refunds.
 26. Unclaimed refunds; escheat to State.
 27. Contempt proceedings; violating rules of Commission.
 28. Contempt proceedings; when.
 29. Contempt proceedings; pleadings, trial and appeal.
 30. Contempt proceedings; suspension bond.
 31. Contempt proceedings; Supreme Court to give precedence to such appeals.
 32. Contempt proceedings; judgment lien; execution.
 33. Contempt proceedings; judgment of Supreme Court on appeal.
 34. Contempt proceedings; moneys to be paid into State Treasury.
 35. Contempt proceedings; taxation of costs and fees.
 36. Contempt proceedings; Attorney General to prosecute.
 37. Proceedings when no quorum present.
 38. Depositions.
 39. Penalty for refusing examination of books.
 40. Penalty for refusing examination of books.
 41. Penalty for destroying records.
 42. Penalties under two preceding sections cumulative.
 43. Appeals; orders superseded; Supreme Court has exclusive appellate jurisdiction; manner of procedure.

GENERAL PROVISIONS—CORPORATION COMMISSION

44. Supersedeas; bond; accounts; reports; additional security; appeals to have precedence.
45. No additional or new evidence to be introduced in the Supreme Court; facts certified; statement of reasons filed; prima facie presumption; justice and reasonableness of order; remand for further report.
46. If order reversed, new order to be substituted; pending appeal may act on new facts; no order retroactive.
47. Depots; passengers; adequate, comfortable and clean; lighted; warmed; freight; suitable.
48. Bulletining trains; railroad agent must report trains.
49. Railroads; oil pipe, express, telephone and telegraph lines; right to construct, operate, connect, intersect and cross.
50. Grade crossings; interlock or safety devices; expenses.
51. Railroad to maintain connections.
52. Power of Commission to order connections, depots, etc.
53. Expenses of same prorated.
54. Industries to be connected by private switch; cost to be borne by private owner; penalty.
55. Jurisdiction of courts not impaired; redress of private claims against transportation and transmission companies; penalties imposed by Commission for public welfare; rate or order not to be challenged in collateral proceedings; cases suspended.
56. Interstate rates; investigation; application to Interstate Commerce Commission for correction or relief.
57. Free transportation and franks prohibited.
58. Passes and franks; penalty.
59. Long and short haul; exemptions as to junctional or competitive points; special rates, etc.
60. Two cent passenger fare.
61. Rate regulation; power conferred upon Commission; passenger fare.
62. Effect of act; amendment of constitution; passenger fare.
63. Right of appeal; passenger fare.
64. Power to collect and disburse refunds; two cent passenger fare.
65. Claimants; proof; two cent passenger fare.
66. Inspection of railroad books; passenger fare.
67. Unclaimed refunds; reversion to State; two cent passenger fare.
68. Railroads; public highways; public service corporations; annual meeting of stockholders; office in the State for transfer of stock, etc.; reports to Corporation Commission.
69. Rolling stock personal property; subject to execution and sale.
70. Consolidation with competing lines by sale or lease prohibited.
71. Consolidation with foreign corporations prohibited.
72. Provisions of constitution to be accepted before securing benefits of future legislation.
73. Articles or commodities produced, mined or manufactured by a railroad not to be transported by it.

(NOTE: Section numbers, Constitution, correspond to the numbers in Revised Laws of Oklahoma, 1910; and numbers in parentheses are the corresponding numbers in Williams' Annotated Constitution of the State of Oklahoma.)

1. Commission—terms—vacancy filled by appointment. A Corporation Commission is hereby created, to be composed of three persons, who shall be elected by the people at a general election for state officers, and their terms of office shall be six years: Provided, Corporation Commissioners first elected under this constitution shall hold office as follows: One shall serve until the second Monday in January, nineteen hundred and nine; one until the second Monday in January, nineteen hundred and eleven; and one until the second Monday in January, nineteen hundred and thirteen; their terms to be decided by lot immediately after they shall have qualified. In case of a vacancy in said office, the governor of the state shall fill such vacancy by appointment until the next general election, when a successor shall be elected to fill out any unexpired term.

Sec. 15 (231), Art. 9, Const.

2. Qualifications. The qualifications of such commissioners shall be as follow: To be resident citizens of this state for over two years next preceding the election, and qualified voters under the constitution and laws, and not less than thirty years of age; nor

CORPORATION COMMISSION—QUALIFICATIONS, ETC.

shall such commissioners, or either of them, be, directly or indirectly, interested in any railroad, street railway, traction line, canal, steamboat, pipe line, car line, sleeping car line, car association, express line, telephone or telegraph line, operated for hire, in this state, or out of it, or any stock, bond, mortgage, security, or earnings of any such railroad, street railway, traction line, canal, steamboat, pipe line, car line, sleeping car line, car association, express line, telephone or telegraph line, compress or elevator companies; and if such commissioner shall voluntarily become so interested, his office shall become vacant; and if any Corporation Commissioner shall become so interested otherwise than voluntarily, he shall, within a reasonable time, divest himself of such interest, and failing to do this, his office shall become vacant. Nor shall any such commissioner hold any other office under the government of the United States, or of this state, or any other state government, and shall not while such commissioner, engage in any occupation or business inconsistent with his duties as such commissioner.

Sec. 16 (232), Art. 9, Const.

3. Oath to be taken and subscribed to—provisions. Before entering upon the duties of his office, each of said commissioners shall take and subscribe to the oath of office as prescribed in this constitution, and shall, in addition thereto, swear that he is not, directly or indirectly, interested in any railroad, street railway, traction line, canal, steamboat, pipe line, car line, sleeping car line, car association, express line, telephone or telegraph line, nor in the bonds, stocks, mortgages, securities, contract, or earnings of any railroad, street railway, traction line, canal, steamboat, pipe line, car line, sleeping car line, car association, express line, telephone or telegraph line, and that he will, to the best of his ability, faithfully and justly execute and enforce the provisions of this constitution, and all the laws of this state concerning railroads, street railways, traction lines, canals, steamboats, pipe lines, car lines, sleeping car lines, car associations, express lines, telephone and telegraph lines, compress and elevator companies, and all other corporations over which said commission has jurisdiction, which oath shall be filed with the Secretary of State.

Sec. 17 (233), Art. 9, Const.

4. Organization of commission—chairman—secretary—quorum. The Corporation Commission shall organize by electing one of its members chairman and appointing a secretary, whose salary shall be fixed by the legislature. A majority of said commission shall constitute a quorum, and the concurrence of the majority of said commission shall be necessary to decide any question.

Sec. 18a (235), Art. 9, Const.

5. Compensation—salary of commissioners. Until otherwise provided by law, the officers of the state shall receive annually as compensation for their services, the following sums: * * * *
Corporation Commissioners, four thousand dollars each.

Sec. 15 (379), Schedule Const.

CORPORATION COMMISSION—OFFICES AND EMPLOYEES

6. Offices and employes. The offices, positions, clerical and stenographic, and assistants to the Corporation Commission, herein-after named, are hereby created and established, the salary or remuneration of each not to exceed the amounts herein designated:

Secretary, salary per annum -----	\$2,000.00
Rate expert, salary per annum -----	3,600.00
Expert accountant and rate clerk, salary per annum ----	2,500.00
Assistant rate clerk, salary per annum -----	1,350.00
Tariff expert, salary per annum -----	1,800.00
Auditor, salary per annum -----	3,000.00
One assistant auditor, salary per annum -----	2,100.00
Two accountants, salary per annum, each -----	2,500.00
Two court reporters, salary per annum, each -----	1,500.00
Engineer (R. R. Dept.), salary per annum -----	2,750.00
Assistant engineer and tabulator, salary per annum ----	1,500.00
Telephone engineer, salary per annum -----	2,200.00
Clerk, salary per annum -----	1,020.00
Clerk, salary per annum -----	1,200.00
Gas and electric engineer, salary per annum -----	2,400.00
Draftsman, salary per annum -----	1,800.00
Corporation record clerk, salary per annum -----	2,000.00
Law and executive clerk, salary per annum -----	2,500.00
Reporter, salary per annum -----	1,350.00
Marshal, salary per annum -----	1,200.00
Four official stenographers, salary per annum, each ----	1,200.00
Three stenographers, salary per annum, each -----	1,020.00
Filing clerk, salary per annum -----	1,500.00

Sec. 1 Ch. 139 Sess. Laws 1917.

7. Annual reports. An account shall be kept by the officers and commissioners of the state of all moneys and choses in action disbursed or otherwise disposed of severally by them, from all sources, and for every service performed; and a report thereof shall be made semi-annually and as often as may be required by law, to the Governor under oath. The Governor may, at any time, require information in writing, under oath, from all officers and commissioners of the state, * * * on any subject relating to their respective offices * * * which information, when so required, shall be furnished by such officers * * * and any officer * * * who at any time, shall make a false report, shall be punished as by law provided.

Sec. 33 (182), Art. 6, Const.

Report to Governor of expenditures and collections. On the first day of July, annually all state officers and heads of state institutions who shall collect or expend for or on behalf of the state any money, shall make a detailed, itemized statement of all funds expended by them, showing to whom paid, and purpose for which said funds were expended; and all state officers, or employees of the State, who shall collect any fund for or on behalf of the state, shall render a detailed, itemized statement to the Governor, showing amount and character of all funds collected by them and from whom collected.

Sec. 1 Ch. 65, S. L. 1913.

Reports to be printed and distributed. The Governor shall cause sufficient number of said report to be printed, to provide a copy thereof to each member of the Legislature, and to other state officials, the same to be delivered to the Secretary of State for such distribution.

Sec. 2 Ch. 65, S. L. 1913.

CORPORATION COMMISSION—FEES

Failure to report—removal from office. If any officer or employe fails or refuses to make the reports herein provided for, he shall be subject to removal from office by proper proceeding provided by law.

Sec. 3 Ch. 65, S. L. 1913.

8. Fees.

(a) Fees for transcripts. That for all transcripts or records furnished or made by the Corporation Commission or its secretary, at the instance of any person, firm, company, or corporation, the same fees shall be charged as are required by law to be charged by the clerk of the Supreme Court for making transcripts or records; provided, that the Corporation Commission, by order, may on a showing, direct that such transcripts or records be furnished without charge, and said fees shall be converted into the state treasury, as provided by law.

Sec. 1, Ch. 161, S. L. 1915.

(Section 8, chapter 97, S. L. 1913, prescribing fees for clerk of Supreme Court, provides a charge of 10c per 100 words for making copies of papers and records, 50c for certificate and seal to any instrument, and \$2.00 for furnishing copy of opinion to each litigant.)

Order No. 919 of the Corporation Commission provides: It is provided that the Commission may by order on showing direct that such transcripts or records be furnished without charge. It appears that the law leaves the conditions and circumstances under which the records may be furnished to the discretion of the commission, also the showing.

Applications having been made by different municipalities for certified copies of reports of public utilities operating in such municipalities, and the general subject of furnishing records to public officers, municipalities, etc., having been under consideration, the commission orders and directs: (1) That copies of records shall be furnished without charge to all state, county and municipal officers, when the same are to be used in the interest of the public. (2) That copies of all records in the office of the commission shall be furnished without charge to the state, counties and municipalities. (3) That copies of records shall be furnished without charge to all churches, benevolent, eleemosynary and charitable institutions. (4) That uncertified copies of orders or extracts therefrom may be given to newspapers, or reporters may be permitted to copy the same for the purpose of publication without charge. (5) That copies of all orders be served on the party to whom directed so that the order may become effective as now provided by the Constitution. Oklahoma City, June 2, 1915.

(b) Fees for refunds. That for all rebates or refunds made through the intervention or agency of the Corporation Commission, a fee of 10 per cent on such rebates or refund shall be charged and deducted from such amount rebated or refunded through such intervention or agency of the Corporation Commission, and same shall be converted into the state treasury as provided by law.

Sec. 2, Ch. 161, S. L. 1915.

8-A. Custody and disposal of funds.

(a) State depository—state treasurer. The state treasurer is hereby designated and made the official depository for all moneys, funds, rentals, penalties, costs, proceeds of sale of property, fees, fines, forfeitures and public charges of every kind that may be received by any state officer, state board, state commission or by any employe of either of such officers, boards or commissions by virtue or under color of office.

Sec. 1, Ch. 238, S. L. 1915.

(b) Fees and penalties collected by state officers—payment to state. It shall be the duty of each and every state officer, state board, state commission and all members and employes of either thereof, to deposit daily in the official depository designated in section one (1) hereof, all moneys, checks, orders, drafts, vouchers, funds, rentals, penalties, costs, proceeds of sale of property, fees,

CORPORATION COMMISSION—FEES

finances, forfeitures and public charges of every kind received or collected by virtue or under color of office, and all such funds and moneys in the hands of any such officer, board, commission, or of any member or employe of either thereof, at the time this act becomes effective shall be immediately transferred to and covered into the said official depository; provided, that all checks, drafts, orders and vouchers, so deposited, shall be credited and cleared at par, and should payment be refused on any such check, draft, order or voucher or should the same prove otherwise worthless, the amount thereof and any costs accruing thereon, shall be a charge against the account theretofore credited with the same, and the officer, board, commission, or member or employe of either thereof so depositing any such unpaid or worthless check, draft, order or voucher shall be liable for any loss to the state, its fund or funds under its management, occasioned by the acceptance of any such unpaid or worthless check, draft, order or voucher. All moneys when so received by the State Treasurer, as such official depository shall be by him deposited daily in banks designated and qualified as depositories, as hereinafter provided, and shall draw interest at the rate of not less than three per centum (3%) per annum on average daily balances, which said interest shall be paid monthly and when collected shall be credited to the respective funds and accounts so earning the same.

Sec. 2, Ch. 238, S. L. 1915.

(c) Deposits—how credited—payments. All moneys deposited in the official depository as provided in sections one (1) and two (2) hereof, shall be credited to the account of the officer, board or commission or employe thereof so depositing the same, and may be withdrawn only in transfer into the state treasury, such parts thereof as may be due the state or its fund, or funds under its management, and in refund of erroneous or excessive collections and credits, and in payment of legal claims and charges against any trust deposit or fund included in any such account. All withdrawals of moneys from the said depository shall be made on the voucher of the authority making such deposit, which said vouchers shall show on their face the character of claim or charge liquidated or the fund or funds to which transferred in the state treasury, and shall, when redeemed, be delivered monthly to the State Auditor and receipted for by him.

Sec. 6, Ch. 238, S. L. 1915.

(d) Moneys belonging to general revenue funds—departments to report to State Auditor. All moneys that shall be received during any calendar month by any state officer, state board, state commission or the members or employes of either thereof, accruing as a part of state's general revenue or any other appropriated funds, shall be paid into the state treasury—that is, transferred from the official depository to the fund or funds in the state treasury to which the same belongs by the authority so receiving the same on or before the second Monday following the close of the calendar month in which such moneys shall have been received, and it shall

CORPORATION COMMISSION—ANNUAL REPORTS

be the further duty of all such officers, board, commissions and the members and employes of either thereof, to make and file with the State Auditor, on or before the second Monday of each month, a verified report in writing, showing the several sources, classes and amounts of money received by virtue or under color of office during the preceding calendar month, together with an itemized statement of the amount and purpose of each of the several vouchers issued in disbursement, distribution and transfer thereof.

Sec. 7, Ch. 238, S. L. 1915.

(e) Penalty for violation. Any official or employe thereof or any member or employe of any state board or state commission who shall fail, neglect or refuse to comply with the requirements of section two (2) hereof, or any other provision of this act, shall forfeit and pay to the use of the State of Oklahoma, the sum of twenty-five dollars (\$25.00) per day for each and every day that he shall so fail, neglect or refuse to comply with requirements, of said act, and shall forfeit and be removed from office; and any such official who shall issue, sign, attest or utter any false or illegal voucher against any moneys deposited, as in this act provided, shall be liable to the state or his official bond for a sum double in amount of any such illegal or fraudulent voucher, and shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine in the sum of not less than one hundred (\$100) dollars nor more than one thousand dollars (\$1,000.00) and by imprisonment in the state penitentiary for a term of not less than one, nor more than five years.

Sec. 9, Ch. 238, S. L. 1915.

9. Annual reports to the Governor—recommendations as to supervision and taxation of corporations. The commission shall make annual reports to the Governor of its proceedings, in which reports it shall recommend, from time to time, such new or additional legislation in reference to its powers or duties, or the creation, supervision, regulation or control of corporations, or to the subject of taxation, as it may deem wise or expedient, or as may be required by law.

Sec. 25 (213), Art. 9, Const.

10. Records of corporations—examinations. The records, books, and files of all corporations shall be, at all times, liable and subject to the full visitorial and inquisitorial powers of the state, notwithstanding the immunities and privileges in this bill of rights secured to the persons, inhabitants and citizens thereof.

Sec. 28 (36), Art. 2, Const.

11. Inspection of books and papers—penalty. The commissioners, or either of them, or such persons as they may employ therefor, shall have the right, at such times as they may deem necessary, to inspect the books and papers of any railroad company or other public service corporation, and to examine, under oath, any officer, agent, or employe of such corporations in relation to the business and affairs of the same. If any railroad company or other public service corporation shall refuse to permit the commissioners, or

CORPORATION COMMISSION—PHYSICAL VALUATION

either of them, or any person authorized thereto, to examine its books and papers, such railroad company or other public service corporation shall, until otherwise provided by law, for each offense, pay to the State of Oklahoma not less than one hundred and twenty-five dollars, nor more than five hundred dollars, for each day it shall so fail or refuse, and the officer or other persons so refusing shall be punished as the law shall prescribe.

Sec. 28 (246), Art. 9, Const. (See also Sec. 28 (36), Art. 2.)

12. Physical valuation—cost—outstanding indebtedness, etc.—when due—interest—salaries of officers and employes of public service corporations—reports. The commission shall ascertain, and enter of record, the same to be a public record, as early as practicable, the amount of money expended in construction and equipment per mile of every railroad and other public service corporation in Oklahoma, the amount of money expended to procure the right of way, and the amount of money it would require to reconstruct the roadbed, track, depots, and transportation facilities, and to replace all the physical properties belonging to the railroad or other public service corporation. It shall also ascertain the outstanding bonds, debentures, and indebtedness, and the amount, respectively, thereof, when issued, and rate of interest, when due, for what purpose issued, how used, to whom issued, to whom sold, and the price in cash, property or labor, if any, received therefor, what became of the proceeds, by whom the indebtedness is held, the amount purporting to be due thereon, the floating indebtedness of the company, to whom due, and his address, the credits due on it, the property on hand belonging to the railroad company or other public service corporation, and the judicial or other sales of said road, its property or franchises, and the amounts purporting to have been paid, and in what manner paid therefor. The commission shall also ascertain the amounts paid for salaries to the officers of the railroad, or other public service corporation, and the wages paid its employes. For the purpose in this section named, the commission may employ experts to assist them when needed, and from time to time, as the information required by this section is obtained, it shall communicate the same to the Attorney General by report, and file a duplicate thereof with the State Examiner and Inspector for public use, and said information shall be printed from time to time in the annual report of the commission.

Sec. 29 (247), Art. 9, Const.

Sec. Commission's orders 201, 367, railroads; 774 gas utilities; 845 oil pipe line; 881 gas pipe lines; 879 telephone utilities.

13. Terms "corporations," "company," "charter," and "license." As used in this article (9), the term "corporation" or "company" shall include all associations and joint stock companies having any power or privileges, not possessed by individuals, and exclude all municipal corporations and public institutions owned or controlled by the state; the term "charter" shall mean the charter of incorporation, by or under which any corporation is formed. The

TERMS DEFINED

term "license" shall mean the authority under which all foreign corporations are permitted to transact business in this state.

Sec. 1 (217), Art. 9, Const.

"**Railroad**" or "**transmission company**" would not include a municipal corporation directly engaged in business of operating a street car line. *Oklahoma City v. Oklahoma Ry. Co.*, 20 Okla. 1, 93 Pac. 48; 16 L. R. A. (ns) 651-n.

32 Okla. 665, 123 Pac. 428; article construed, 31 Okla. 479, 122 Pac. 232.

14. Term "company." As used in this article (9), the term "company" shall include associations and joint stock companies having any power or privileges not possessed by individuals, and include all corporations except municipal corporations and public institutions owned or controlled by the state.

Sec. 18b (236) Art. 9, Const.

15. Terms "transportation company," "rate," "charge," "regulation," "transmission company," "freight," "public service corporation," "person," "bond," and "frank" defined. As used in this article (9), the term "transportation company" shall include any company, corporation, trustees, receiver, or any other person owning, leasing or operating for hire, a railroad, street railway, canal, steamboat line, and also any freight car company, car association, express company, sleeping car company, car corporation, or company, trustee or person in any way engaged in such business as a common carrier over a route acquired in whole or in part under the right of eminent domain, or under any grant from the government of the United States; the term "rate" shall be construed to mean rate of charge for any service rendered, or to be rendered; the terms "rate," "charge" and "regulation," shall include joint rates, joint charges, and joint regulations, respectively; the term "transmission company" shall include any company, receiver or other person, owning, leasing or operating for hire any telegraph or telephone line; the term "freight" shall be construed to mean any property transported or received for transportation, by any transportation company. The term "public service corporation" shall include all transportation and transmission companies, all gas, electric light, heat and power companies, and all persons authorized to exercise the right of eminent domain, or to use or occupy any right of way, street, alley, or public highway, whether along, over, or under the same, in a manner not permitted to the general public; the term "person" as used in this article shall include individuals, partnerships and corporations, in the singular as well as plural number; the term "bond" shall mean all certificates or written evidences of indebtedness issued by any corporation and secured by mortgage or trust deed. The term "frank" shall mean any writing or token issued by or under authority of a transmission company, entitling the holder to any service from such company free of charge.

The provisions of this article shall always be so restricted in their application as not to conflict with any of the provisions of the Constitution of the United States, and as if the necessary limitations upon their interpretation had been herein expressed in each case.

Sec. 34 (252), Art. 9, Const.

Applies to telephone line owned by individual. *Hine v. Wadlington et al.*, 26 Okla. 389, 109 Pac. 301.

CORPORATION COMMISSION—POWERS AND DUTIES

15-A. Person includes corporation. The word "person," except when used by way of contrast, includes not only human beings, but bodies politic or corporate. Sec. 2929 R. L. 1910.

History. Dak. 2746; S. 1890, Sec 2701.

16. Sections of constitution subject to be amended or repealed by the Legislature—when. After the second Monday in January, nineteen hundred and nine, the Legislature may, by law, from time to time, alter, amend, revise or repeal sections from eighteen to thirty-four, inclusive, of this article (9), or any of them, or any amendments thereof: Provided, that no amendment made under authority of this section shall contravene the provisions of any part of this constitution other than the said sections last above referred to or any such amendments thereof. Sec. 35 (253), Art. 9, Const.

Construed, with reference to Secs. 1419, 1420. St. Louis, etc., R. Co. v. State et al., 26 Okla. 62, 107 Pac. 929.

17. Commission—its power and duty—fix rates and charges and classifications and rules—correct abuses—prevent discrimination and extortion—to require service, facilities and conveniences. The commission shall have the power and authority and be charged with the duty of supervising, regulating and controlling all transportation and transmission companies doing business in this state, in all matters relating to the performance of their public duties and their charges therefor, and of correcting abuses and preventing unjust discrimination and extortion by such companies; and to that end the commission shall, from time to time, prescribe and enforce against such companies, in the manner hereinafter authorized, such rates, charges, classifications of traffic, and rules and regulations, and shall require them to establish and maintain all such public service facilities, and conveniences as may be reasonable and just, which said rates, charges, classifications, rules, regulations, and requirements, the commission may, from time to time, alter or amend. All rates, charges, classifications, rules and regulations adopted, or acted upon, by any such company, inconsistent with those prescribed by the commission, within the scope of its authority, shall be unlawful and void. Sec. 18 (231) (d), Art. 9, Const.

Order No. 982. (P. L. R. 1916, A. 358.) No. 8219, on appeal in Supreme Court. Carrier shall not advance the rates now charged for freight or passenger service until such advance is approved by this Commission and tariffs regularly filed with the Commission. This order shall be in full force and effect from and after the 15th day of November, 1915.

18. Inspection of books and papers—reports and statements—physical conditions—security and accommodation of the public—regulations to prevent discrimination and extortion between connecting lines. The commission shall also have the right, at all times, to inspect the books and papers of all transportation and transmission companies doing business in this state, and to require from such companies, from time to time, special reports and statements, under oath, concerning their business; it shall keep itself fully informed of the physical condition of all the railroads of the state, as to the

CORPORATION COMMISSION—POWERS AND DUTIES

manner in which they are operated, with reference to the security and accommodation of the public, and shall, from time to time, make and enforce such requirements, rules, and regulations as may be necessary to prevent unjust or unreasonable discrimination or extortion by any transportation or transmission company in favor of, or against any person, locality, community, connecting line, or kind of traffic, in the matter of car service, train or boat schedule, efficiency of transportation or transmission, or otherwise, in connection with the public duties of such company. Sec. 18 (231) (2), Art. 9, Const.

19. Notice required—evidence — objections—hearing, etc.

Before the commission shall prescribe or fix any rate, charge or classification of traffic, and before it shall make any order, rule, regulation, or requirement directed against any one or more companies by name, the company or companies to be affected by such rate, charge, classification, order, rule, regulation or requirement, shall first be given, by the commission, at least ten days' notice of the time and place when and where the contemplated action in the premises will be considered and disposed of, and shall be afforded a reasonable opportunity to introduce evidence and to be heard thereon, to the end that justice may be done, and shall have process to enforce the attendance of witnesses; and before said Commission shall make or prescribe any general order, rule, regulation, or requirement, not directed against any specific company or companies by name, the contemplated general order, rule, regulation, or requirement shall first be published in substance, not less than once a week, for four consecutive weeks, in one or more of the newspapers of general circulation published in the county in which the capitol of this state may be located, together with the notice of the time and place, when and where the commission will hear any objections which may be urged by any person interested against the proposed order, rule, regulation, or requirement; and every such general order, rule, regulation, or requirement, made by the commission, shall be published at length, for the time and in the manner above specified, before it shall go into effect, and shall also, so long as it remains in force, be published in each subsequent annual report of the commission.

Sec. 18 (231) (3), Art. 9, Const.

20. Authority of commission—local franchises—arbitration—mediation. The authority of the commission (subject to review on appeal as hereinafter provided) to prescribe rates, charges and classifications of traffic, for transportation and transmission companies, shall, subject to regulation by law, be paramount; but its authority to prescribe any other rules, regulations or requirements for corporations or other persons shall be subject to the superior authority of the Legislature to legislate thereon by general laws: Provided, however, that nothing in this section shall impair the rights which have heretofore been, or may hereafter be, conferred by law upon the authorities of any city, town or county to prescribe rules, regulations, or rates of charges to be observed by any public

CORPORATION COMMISSION—POWERS AND DUTIES

service corporation in connection with any services performed by it under a municipal or county franchise granted by such city, town or county, so far as such services may be wholly within the limits of the city, town, or county granting the franchise. Upon the request of the parties interested, it shall be the duty of the commission as far as possible, to effect, by mediation, the adjustment of claims, and the settlement of controversies, between transportation or transmission companies and their patrons or employes.

Sec. 18 (234) (4), Art. 9, Const.
Annotations to Sec. 18 (234, 1-4).

Orders calling for information. See Sec. 20, Note. (Const.)

For private switch. See Sec. 33, notes. (Const.)

Cited and construed. Telephone Co. v. State, etc., 25 Okla. 524, 536, 106 Pac. 962; Ry. Co. v. Williams et al., 25 Id. 662, 107 Pac. 428; St. L. etc. R. Co. v. State et al., 26 Okla. 62, 107 Pac. 929.

Orders—conformity to pleading—interstate commerce. Though petition asks for regulation of interstate commerce, yet if order does not interfere with interstate commerce, commission has jurisdiction to enter same. The test is, not the order prayed for, but the one granted. Ry. Co. v. Williams et al., 25 Ok. 662, 107 Pac. 428.

Continuance—practice. Continuance refused. As no showing was made for continuance at time of hearing, there should have been an affirmative and further showing by motion for reopening case. Id.

Same—motion for new trial not required, but if it had been made, error could then be predicated on action of the commission. Id.

Population of counties and cities—judicial notice taken by commission. Id.

Storage of freight—interstate commerce, after arrival at destination awaiting delivery to consignee, and charges therefor. St. L. etc., R. Co. v. State et al., 26 Okla. 62, 107 Pac. 929. Citing 203 U. S. 270.

Same; interstate shipment does not come to an end until delivery to consignee. Id. Citing 21 Okla. 786, 104 Pac. 1493.

Interstate commerce act of 1887 (24 Stat. 379), as amended in 1889 (Comp. St. 1901, p. 3151), and Hepburn Act (34 Stat. 584), construed. Id.

Powers of commission—legislative. The promulgation of orders on the subject of storage supersedes all legislative acts on the subject. Secs. 1419, 1420, superseded. Id.

Same—subject to legislative control after the second Monday in January, 1909, under Const., Art. 9, Sec. 35. Id.

Order No. 167, rule 10, relating to demurrage on shipments, so far as it relates to interstate commerce, is void. For the further reason that it imposes an unusual burden on interstate commerce. Id.

Order No. 167, rule 10, construed. Held, inapplicable to interstate commerce. Id.

Procedure herein prescribed covers two classes of cases. Construed. G. C. & S. F. Ry. Co. et al. v. State, 26 Okla. 761, 110 Pac. 651.

Same—appeal in second class of cases will be dismissed unless it appears that appellant is affected by order appealed from. Id.

Passenger service—additional train. Order of commission requiring additional train from Guthrie to Marietta reversed as to train service from Guthrie to Purcell en route. G. C. & S. F. Ry. Co. et al. v. State et al., 23 Okla. 524, 101 Pac. 258.

Flag station—establishment and maintenance. Commission has authority, to require when reasonably necessary and proper. A. T. & S. F. Ry. Co. v. State et al., 23 Okla. 519, 101 Pac. 262.

Telegraph service. Carrier is not required to install telegraph service for commercial purposes, but only in connection with its business as a common carrier. A. T. & S. F. Ry. Co. v. State et al., 23 Okla. 231, 100 Pac. 16.

Establishing telegraph service—evidence showing loss admissible. Id.

Same—proper practice is to admit evidence and note objections, with ruling of commission thereon. Id.

A telephone is a facility and convenience within the meaning of this section. A. T. & S. F. Ry. Co. v. State et al., 23 Okla. 219, 220, 100 Pac. 11; 21 L. R. A. (n. s.) 305.

The legislature has power, unless restricted in the organic law, to require railroad companies to afford every reasonable facility and convenience for the transportation of their business as common carriers with the public. The only limitation upon such power is that the duty imposed must relate to the matter which is within the domain and a proper subject of police regulation, and that it be reasonable. Id.

CORPORATION COMMISSION—POWERS AND DUTIES

Same—corporation commission. Such legislative authority may be conferred upon. *Id.*

Side tracks—unlawful discrimination. Permission to locate a private elevator on right of way to one party, and refusal to construct a track to a competing elevator off the right of way, does not constitute unlawful discrimination, under this section. *C. R. I. & P. Ry. Co. v. State et al.*, 23 Okla. 94, 99 Pac. 901. Citing 164 U. S. 403, 41 L. Ed. 489.

The phrase, "such public service facilities and conveniences as may be reasonable and just," as used in this section, means everything incident to the general, prompt, safe and impartial performance of the duties to the public at large imposed by the state, in the proper exercise of its police power, upon transportation or transmission companies. *Id.* Citing 179 U. S. 287, 45 L. Ed. 194; 166 U. S. 427, 41 L. Ed. 1064.

Applied, in suit by territory against railroad pending before statehood, and held to so change conditions that a decision of the point would serve no useful purpose. Appeal dismissed. *C. R. I. & P. Ry. Co. v. Ter.*, 21 Okla. 329, 97 Pac. 265.

That a railway crosses the state line at a certain point may be taken into consideration in determining whether station and other facilities are required at that point, but that fact alone is not sufficient to authorize the Corporation Commission to require such facilities. *A. T. & S. F. Ry. Co. v. State et al.*, 27 Okla. 565, 112 Pac. 1010.

Establishing stations—corporation commission without authority to arbitrarily require a railway company to establish stations and switching facilities at places not required by public convenience or necessity. *Id.*

Side tracks—commission no power to require construction at expense of company. Elevator switch. *St. L. & S. F. Ry. Co. v. State et al.*, 27 Okla. 424, 112 Pac. 980; same v. same, 27 Okla. 426, 112 Pac. 1121. See 217 U. S. 196, 54 L. Ed. 727.

Operating telephone exchange on Sunday. Order reversed. *Twin Valley Tel. Co. v. Mitchell et al.*, 27 Okla. 388, 113 Pac. 914.

Adequate and reasonable facilities—interstate train not stopped. *St. L. & S. F. Ry. Co. v. Reynolds et al.*, 26 Okla. 804, 110 Pac. 668; 138 Am. St. 1003-n. Following 25 Okla. 325, 586, 106 Pac. 852; 197 *Id.* 172.

Adequate facilities defined. *Id.*

Telephone line owned by individual. Power of corporation commission extends over. The only character of telephone line excluded is one not operated for hire. *Hine v. Wadlington et al.*, 26 Okla. 389, 109 Pac. 301.

Notice essential, although commission acts in an administrative or legislative capacity and not as a court of record. *Hine v. Wadlington et al.*, 27 Okla. 285, 111 Pac. 543.

Private crossing. Order entered, permitting engineer of the commission to locate crossing as per proffer of the company. Former decision set aside. *M. K. & T. Ry. Co. v. State*, 26 Okla. 270, 109 Pac. 65.

Switching charge. Where intrastate shipment made and first company delivers car to second company, which company delivers to consignee, and charge of two dollars made by second company paid by first company for switching; held, not in violation of Rule 6 or Order 45, fixing the charge at one dollar. *A. T. & S. F. Ry. Co. v. State*, 26 Okla. 166, 109 Pac. 218.

Trial—amendment of original complaint during trial so as to charge violation of a different order, error. *St. L. etc., R. Co. v. State et al.*, 26 Okla. 62, 107 Pac. 929.

Order requiring free storage for ten days void as to interstate commerce. Question of intrastate commerce not decided. *Id.*

Interstate commerce—state regulations. State may regulate place, manner and time of delivery of merchandise, but such regulations must not interfere with or burden interstate commerce. *Id.* Citing 202 U. S. 543; 291 U. S. 321; 192 U. S. 500; 196 U. S. 194.

In prescribing rates, the commission should determine value, earnings and expenses. Earnings should be sufficient to yield a reasonable dividend. *M. V. R. Co. et al. v. State*, 24 Okla. 817, 104 Pac. 1086; *K. C. M. & O. Ry. Co. et al. v. State*, 24 Okla. 822, 104 Pac. 1091; *A. T. & S. F. Ry. Co. et al. v. State*, 24 Okla. 824, 104 Pac. 1090; *St. L. & S. F. Ry. Co. et al. v. State*, 24 Okla. 826, 104 Pac. 1088; Same v. Same, 24 Okla. 828, 104 Pac. 1087; *St. L. I. M. & S. Ry. Co. et al. v. State*, 24 Okla. 830, 104 Pac. 1092; *M. K. & T. Ry. Co. v. State*, 24 Okla. 832, 104 Pac. 1089; *A. T. & S. F. Ry. Co. et al. v. State*, 21 Okla. 834; 104 Pac. 1089; *C. R. I. & P. Ry. Co. et al. v. State*, 24 Okla. 835, 104 Pac. 1092.

Private facilities. This section does not require companies at their own expense to provide such equal facilities and conveniences between private persons or corporations as to overcome or equalize disadvantages caused by dissimilarity of location. *A. T. & S. F. Ry. Co. v. State et al.*, 24 Okla. 616, 104 Pac. 908. Following 23 Okla. 94, 99 Pac. 901.

Telegraph service at Ferguson. Under the facts, held, service does not justify it. *C. R. I. & P. Ry. Co. et al. v. State et al.*, 24 Okla. 370, 103 Pac. 617.

Establishment of depot—powers of commission and rights of public discussed. *M. K. & T. Ry. Co. v. State*, 24 Okla. 331, 103 Pac. 613.

CORPORATION COMMISSION—POWERS AND DUTIES

Powers—legislative. Powers of commission to promulgate rates legislative, and their exercise involve legislative discretion and policy. *Ft. Smith & W. Ry. Co. et al. v. State*, 25 Okla. 866, 108 Pac. 407.

Interstate trains—reasonableness of order. Commission has power to make an order requiring interstate train to stop at station where company has not provided reasonable and adequate facilities, provided such stopping does not interfere with interstate connections. *Ry. Co. v. Town of Troy et al.*, 25 Okla. 749, 108 Pac. 753. Following 203 U. S. 335; 207 Id. 328; 173 Id. 285; 177 Id. 514; 166 Id. 427; 25 Okla. 325, 586, 106 Pac. 852, 107 Pac. 172.

Railroad crossings. This section construed. Under it, commission has jurisdiction to determine necessity and propriety for crossings, and place and manner of its being made. After this is done, proceedings must be had as provided by law of eminent domain. (See Sec. 1349, subd. 6). *Ry. Co. v. Richardson, Judge et al.*, 25 Okla. 640, 106 Pac. 1108. Following 22 Okla. 106, 98 Pac. 330.

Order—adequate train service—interstate train required to stop at town, eleven miles from Oklahoma City, in absence of showing that interstate traffic will be interfered with. *Ry. Co. v. Town of Witcher et al.*, 25 Okla. 586, 106 Pac. Co. v. State et al., 24 Okla. 325, 107 Pac. 172, and cases cited.

Commission—order to install telegraph operator. Rule as announced in *Ry. Co. v. State et al.*, 24 Okla. 370, 103 Pac. 617, followed. *Ry. Co. v. Newell et al.*, 25 Okla. 502, 106 Pac. 818.

Same—no evidence taken by commission. Order held unreasonable, where expenses are increased 75 per cent to 100 per cent. Id.

Prima facie presumption, which obtains by virtue of this section, applies only to facts found by Commission, or that are established by evidence upon which Commission failed to find a material fact; and where a fact material to reasonableness, justness and correctness is lacking in the findings, and not supplied by evidence, said presumption does not apply. Id. Following 24 Okla. 331, 103 Pac. 613.

Changing name of station. Commission vested with power, where public service requires. *M. K. & T. Ry. Co. v. State et al.*, 25 Okla. 437, 106 Pac. 858; *A. T. & S. F. Ry. Co. v. State et al.*, 27 Okla. 420, 112 Pac. 1134.

Same—selection of name should be one which will not cause railway company inconvenience and expense. Id.

Side track—commission no power under this section to order construction of side track. Proper procedure under Sec. 246 of constitution. *Ry. Co. v. Haywood et al.*, 25 Okla. 417, 106 Pac. 862. Following 23 Okla. 94, 99 Pac. 901; 24 Okla. 616, 104 Pac. 908.

Above cases followed in *Ry. Co. v. State et al.*, 25 Okla. 420, 106 Pac. 818.

Adequate and reasonable facilities—interstate commerce. Where provision has been made for accommodation of traffic to and from a certain place, an order of the corporation commission, requiring it to stop another train engaged in interstate commerce at said point, is unreasonable. *Ry. Co. v. Town of Norfolk et al.*, 25 Okla. 325, 107 Pac. 172.

Power of county commissioners under proviso. No authority to grant franchise. *Tulsa Street Ry. Co. v. State*, 26 Okla. 559, 563, 110 Pac. 373.

Cited, etc. 49 Okla. 117, 583, 138 Pac. 1033, 139 Pac. 694; 148 Pac. 166; 148 Pac. 141; 159 Pac. 151, 178.

Case remanded to commission. 28 Okla. 573, 115 Pac. 1124.

Telegraph company—regulation—jurisdiction of commission. 31 Okla. 415, 121 Pac. 1962.

Telegraph office, Coalgate. 35 Okla. 209, 128 Pac. 1132.

Up-town ticket office, Hobart, order No. 256; 33 Okla. 370, 125 Pac. 448.

Change of depot location. 31 Okla. 509, 122 Pac. 217.

Joint depot. 29 Okla. 610, 119 Pac. 117.

Depot; jurisdiction of commission. 29 Okla. 553, 563, 119 Pac. 423.

Jurisdiction to open highways and crossings over railways—local authorities appeal power of commission. 29 Okla. 523, 118 Pac. 259; 31 Okla. 801, 123 Pac. 1047; 28 Okla. 797, 802, 115 Pac. 872, 874; 35 Okla. 166, 128 Pac. 496; 40 Okla. 411, 138 Pac. 1026.

Adequate crossing at street intersections, Woodward. 28 Okla. 797.

Viaduct crossing. Sup. Ct. No. 6198, *A. T. & S. F. v. Corp. Com.*, pending on rehearing.

Flagmen at street intersections—power of commission. 28 Okla. 453, 114 Pac. 291.

Order to stop on flag, Craig Switch. 25 Okla. 610, 115 Pac. 770.

Flag station. 29 Okla. 71, 116 Pac. 1012.

Building material—order. 35 Okla. 233, 128 Pac. 908.

Grain rates. 35 Okla. 211, 220, 221, 229, 128 Pac. 900, 903, 901, 907.

Street railway—school children—rates. 33 Okla. 755, 127 Pac. 1087.

Failure to file tariff sheet. 33 Okla. 341, 125 Pac. 721.

Telephone rates. Construed in connection with Sec. 680 (19), 33 Okla. 724, 127 Pac. 1963.

CORPORATION COMMISSION—POWERS' AND DUTIES

Gas—regulation of charges prior to enactment of Ch. 93 S. L. 1913, 35 Okla. 454, 130 Pac. 127.

Power to fix rates for gas. Sec. 18, Art. 9 of the Constitution did not confer upon the Corporation Commission jurisdiction and power to fix rates for a gas company furnishing gas within the limits of a city under franchise from the city. *City of Pawhuska v. Pawhuska Oil & Gas Co.*, 166 Pac. 1058.

Livestock—dipping cattle. 35 Okla. 589, 130 Pac. 1089.

Jurisdiction of commission—form of pleading. 31 Okla. 801, 123 Pac. 1047.

Street railroads—transfers. Oklahoma City. 33 Okla. 737, 127 Pac. 1080.

Cotton gin company. 31 Okla. 603, 122 Pac. 163.

Free storage—interstate shipment—order No. 167, rule 10. 31 Okla. 767, 123 Pac. 1065.

Free transportation to baggage agents. 35 Okla. 89, 128 Pac. 298.

Sunday train—order. 28 Okla. 109, 114 Pac. 1104.

Show ticket order. *Travelers corporation v. St. L. & S. F.*, 148 Pac. 166.

Stop station—order. 28 Okla. 115, 113 Pac. 930.

Joint traffic arrangements, power of the states to compel the entering into. 89 Am. St. 527. Discrimination by railroads, when reasonable and lawful, and when not. 11 Am. St. 647.

Interstate commerce, constitutionality of state regulation of. 27 Am. St. 547.

Interstate, carriers, statute fixing charges of to points without state. 44 Am. Rep. 677.

Depots, location. 156 P. 1155, *M. O. & G. Ry. Co. v. State et al.*, reversing order 850 of Corporation Commission.

Railroads—establishing stations—Corporation Commission—orders. The Corporation Commission is without authority to arbitrarily require a railway company to establish stations and switching facilities at places not required by public convenience or necessity. *A. T. & S. F. Ry. Co. v. State et al.*, 27 Ok. 565.

Same—stations at state line—necessity. That a railway crosses the state line at a certain point may be taken into consideration in determining whether station and other facilities are required at that point, but that fact alone is not sufficient to sustain an order of the Corporation Commission requiring the railway company to supply such facilities. *Id.*

Railroads—stopping trains at flag station—order of Corporation Commission. A petition was filed for the stopping of certain trains on flag at Craig Switch, which was granted by the commission. An appeal was prosecuted therefrom. Held, that the same should not be disturbed on appeal. *M. K. & T. Ry. Co. v. State*, 28 Okla. 610; 115 Pac. 770.

Railroads—Corporation Commission—orders locating stop stations. The Corporation Commission is vested with authority to require a railway company to locate and construct a side track and establish a prepaid and stop station at a point on its line reasonably required by public convenience or necessity. *M. O. & G. Ry. Co. v. State et al.*, 28 Okla. 115.

Railroads—stopping of interstate trains—reasonableness of Corporation Commission order. When the evidence reasonably tends to show that a railway company has not provided adequate and reasonable passenger facilities at a certain station, and the Corporation Commission so finds, an order of the commission requiring it to stop another train each day engaged in interstate commerce, when the stopping of such trains will not reasonably prevent the making of their interstate connections or interfere with same, must on appeal be regarded as just, reasonable and correct. *St. L. & S. F. Ry. Co. v. Town of Troy et al.*, 25 Okla. 749; 108 Pac. 753.

Railroads—Regulation—order requiring trains to stop at station—"adequate and reasonable facilities." Where a railroad company has provided adequate and reasonable facilities for the accommodation of traffic to and from a certain place, an order of the Corporation Commission, requiring it to stop another train engaged in interstate commerce at said point, is unreasonable. *M. K. & T. Ry. Co. v. Town of Norfolk et al.*, 25 Okla. 325; 107 Pac. 172.

(a) The term "adequate and reasonable facilities" is not capable of exact definition, being a relative expression, and calls for such facilities as may be fairly demanded; regard being had to the size of the place, the extent of the demand for transportation, the cost of furnishing the additional accommodation asked for, and to all other facts which would have a bearing upon the question of convenience and cost. *Schmidt v. Ry. Co.*, 4 Wis. Railroad Commission Reports, p. 121. *Id.*

Railroads—regulation—stopping trains at station—"adequate facilities." Where a railroad company has not provided adequate and reasonable facilities for the accommodation of local traffic to and from a certain place which is within eleven miles of the county seat, a city of over 30,000 inhabitants, located on the same railroad, an order of the Corporation Commission requiring it to stop at said point another train each way engaged in interstate commerce when the stopping of such trains would not reasonably prevent the making of their interstate connections, or interfere with same, will not be construed on review in this court as being unreasonable. *M. K. & T. Ry. Co. v. Town of Witcher et al.*, 25 Okla. 586; 106 Pac. 852.

CORPORATION COMMISSION—POWERS AND DUTIES

(a) The term "adequate facilities" is not capable of exact definition, being a relative term, and calls for such facilities as may be fairly demanded, regard being had to the size of such station or place, the extent of the demand of transportation, its relative location to other places, the cost of furnishing the additional accommodations asked for, and all other facts which would have a bearing upon the question of convenience and cost. *M. K. & T. Ry. Co. v. Town of Norfolk et al.*, ante, p. 325, 107 Pac. 172. *Id.*

Railroads—regulation—passenger trains. Where the evidence shows that the passenger train service between Guthrie and Purcell, a distance of something like 70 miles, is adequate, and that said service between Purcell and Marietta, a distance of about 80 miles, on the same line is inadequate, and there was a finding to that effect by the Corporation Commission, an order presumed to be based upon such evidence and findings, requiring the railway company to run an additional passenger train a day each way between Guthrie and Marietta, was unreasonable. *G. C. & S. F. Ry. Co. et al. v. State et al.*, 23 Okla. 524; 101 Pac. 258.

Railroads—Corporation Commission—jurisdiction—notice to receivers—sufficiency. Where, in a proceeding before the Corporation Commission to require a railroad company, whose property and affairs had been placed by a United States court in the hands of receivers, to construct a depot at H., on its line of road, and where, prior to the appointment of the receivers, the company had, pursuant to Art. 9, Sec. 43, of the Constitution, designated an agent upon whom service of legal notice might be had, and where, after the appointment of the receivers, said agent continued to act as agent for them as to all lawful notices directed against them by name, in which the receivers acquiesced, assuming that the receivers were necessary parties to said proceeding, held, that it was necessary to serve notice thereof on them pursuant to Art. 9, Sec. 18, construed with Art. 9, Sec. 34, of the Constitution, and Rev. Laws 1910, Sec. 7336. And where a copy of the complaint filed with the Corporation Commission was served upon said agent, together with notice by the commission to the agent that the same would be considered and disposed of at the office of the Corporation Commission at Oklahoma City on a day certain, held further although neither notice nor complaint was addressed or directed to the receivers by name, that such was sufficient service of notice upon them under Art. 9, Sec. 18, of the Constitution to vest the commission with jurisdiction of the receivers, and to make the order requiring the company to construct a depot at H., pursuant to the prayer of the complainant. *Lusk et al. v. State et al.*, 17 Okla. 648, 150 Pac. 151.

Railroads—regulation by Corporation Commission—change of name of station. Under the grant of power to the Corporation Commission, contained in Sec. 18, Art. 9, of the Constitution (Snyder's Const., p. 238), it has authority to require a railway company to change the name of a station on its line of road, where the same is necessary for the proper service and convenience of the public in the transaction of its business as a common carrier. *M. K. & T. Ry. Co. v. State et al.*, 25 Okla. 427, 106 Pac. 858.

Same—reasonableness of change. A station on a line of railway was named Cale. Thereafter a postoffice and town were established and built at that place and named Sterrett. There is in this state another station named Cale, and other postoffices with names similar, which results in confusion, loss and delay in shipments of goods. On the same line of said railway, in an adjoining state, another station by the name of Sterrett is located. Complainants applied to the railway company to change the name of its station from Cale to Sterrett, which the company declined to do, but offered to change it to any other name, to be designated by complainants, which would not be identical with the name of any station on its line of road. On a hearing on a petition before the Corporation Commission the evidence showed that a change of the name from Cale to Sterrett would not bring the relief sought, but would in all likelihood result in a continuance of the inconvenience. An order was made requiring the railway company to make such change. Held, on appeal that the same could not be sustained as reasonable and just, and is reversed. *Id.*

Carriers—regulation—power of Corporation Commission. Sec. 18 (1), Art. 9, of the Constitution (Sec. 234, Williams' Ann. Const. Okla.), empowers the Corporation Commission with authority to supervise, regulate and control railroad companies, in this state in all matters relative to the performance of their public duties, and their charges therefor, and to prevent unjust discrimination by such companies in the performance of such duties and their charges. *C. R. I. & P. Ry. Co. et al. v. Filson et al.*, 35 Okla. 89, 128 Pac. 298.

Same—regulation of charges—constitutional provisions. By Sec. 13 of Art. 9, of the Constitution (Sec. 229, Williams' Ann. Const. Okla.), railroad companies are permitted to issue or give free tickets, free passes, or other free transportation to baggage agents traveling on their trains. *Id.*

(a) Such baggage agent under the terms of said section is not required to be an employe of such company. *Id.*

Railroads—street crossings—power of Corporation Commission. Under the power conferred by Sec. 18, Art. 9, of the Constitution, to supervise, regulate, and control all transportation and transmission companies doing business in this state in all matters relating to their public duties, and of correcting abuses, the Corporation Commission has authority to require a railway company to guard the intersection of its tracks with the streets of a city of the first class when the same become dangerous to the life or safety of the persons or their property

CORPORATION COMMISSION—POWERS AND DUTIES

using such railway for transportation as common carriers, by reason of the press of travel along the streets forming such crossings. *St. L. & S. F. Ry. Co. v. Lewis et al.*, 28 Okla. 453; 114 Pac. 702.

Corporations—prosecution before Corporation Commission—parties. Complaints against a public service corporation may be prosecuted before the Corporation Commission in the name of the state upon complaint by a private citizen who may be affected by the alleged violation of public duty. *Id.*

Railroads—street crossings—maintaining flagman—powers of Corporation Commission. The fact that the relief granted incidentally casts upon the railway company the burden of maintaining a flagman at a street crossing in no wise interferes with the exercise of the police power conferred upon the Corporation Commission to interfere when such crossings become dangerous by reason of frequency of travel. *Id.*

Same—reasonableness of order—evidence. Evidence examined and held to sustain the findings of the commission as to the reasonableness of the order appealed from. *Id.*

On crossings generally, see annotations following Sec. 1432, R. L. 1910.

Carriers—street railroads—fares of school children—"public schools." The Corporation Commission ordered: "That the defendant (appellant), the Oklahoma Railway Company, furnish to children under the age of fifteen years, going to or from St. Joseph's Parochial School, as pupils therein, tickets at the rate of two and one-half cents each in quantities of twenty tickets at one time. Such tickets to be used only in going to and returning from said school, to be honored for continuous passage and transfer on connecting lines over any other tracks of said defendant within the corporate limits of Oklahoma City. That such book of tickets shall not be limited to use on any particular day, but may be used any day on which the school may be in session." Section 7 of the ordinance granting the franchise under which the appellant operates its line of street railway provides: "Tickets for the use of school children shall be furnished good for one continuous passage, in quantities of not less than twenty rides at the rate of two and one-half cents each, under any reasonable regulations which the company may impose to prevent the abuse of such privilege or the use of such tickets by others than children under fifteen years of age in actual attendance on the public schools of said city." **Held**, that "public schools of said city" include the public schools of said city whether maintained by the public by taxation or by private agencies for the public by private benevolence. *Oklahoma Ry. Co. v. St. Joseph's Parochial School et al.*, 33 Okla. 755; 127 Pac. 1087.

Carriers—street railroads—regulation—transfers—Corporation Commission. The Corporation Commission ordered: "That on all days except Sundays, between the hours of six and eight a. m., and five-thirty and eight p. m., the defendant (appellant), the Oklahoma Railway Company, shall give transfers when requested by the passenger, and that said transfers be honored at any point on the line for which they are marked. Between the hours of six and eight a. m., when two cars meet on a parallel track, they shall stop for the transfers of passengers. Example: If a University car going west on Main street between Broadway and the terminal should meet a Capitol Hill or Stockyards car, both cars shall stop to transfer passengers, if they have any. Between six and eight a. m., as one car is entering the terminal from Main street, if at the same time another car is coming out on Main street, and passengers on the incoming car desire to transfer to the outgoing car, the same as to Grand avenue, both cars should be stopped until passengers can transfer. At all other hours of the day the rules now in force by the company may be enforced. Transfers given to passengers on the outside of the terminal station may be different to those given on the inside." **Held**, that the commission had jurisdiction to make this order.

(a) Said order on review here is not shown to be unreasonable and unjust. *Oklahoma Ry. Co. v. Powell et al.*, 33 Okla. 737; 127 Pac. 1080.

Carriers—rules—power to make—Corporation Commission. A common carrier has the right to conduct its business in this state according to the rules of the common and statutory law, and may make and enforce reasonable rules and regulations fixing the times and places, the methods and forms, in which it will receive the various commodities it undertakes to carry, when such rules do not contravene any rule of law, or lawful regulation prescribed by the Corporation Commission. (*United States Express Co. v. State et al.*, 47 Okla. 656; 150 Pac. 178.)

Same. Rules and regulations of a common carrier prescribed by it for the conduct of its business, when inconsistent with the rules and regulations lawfully prescribed by the Corporation Commission, are unlawful and void under Sec. 18, Art. 9, of the Constitution. *Id.*

Carriers—delivery of freight—switching charges—penalties. A car of wheat billed at Bliss, Okla., to an elevator company at Oklahoma City over the Atchison, Topeka & Santa Fe Railway line, at said point was set by its employees on the connecting track between such line and the line of the Missouri, Kansas & Texas Railway Company, and by the latter company delivered over its switching tracks to the elevator company, the former company having no authority to use the switch engines or lines of the Missouri, Kansas & Texas Railway Company, **held**, that the former company in collecting from the shipper the sum of \$2 for the charges made by the latter company for this switching,

CORPORATION COMMISSION—POWERS AND DUTIES

and paying same to it, did not subject itself to a penalty under the terms of rule 6 of order 45, providing that where "a mill is located on a different line from the one handling the car, and only a switching service is performed, a switching charge not exceeding \$1.00 each way" shall be charged. *A. T. & S. F. Ry. Co. v. State*, 26 Okla. 166; 109 Pac. 218.

Carriers—regulation of Corporation Commission—hearing—procedure. On a hearing to enforce compliance with any of the orders or requirements of the Corporation Commission against a transportation company, such company must be permitted to introduce evidence, when offering same, to controvert the justness or reasonableness of the order or requirement complained of. *Id.*

Counties—powers of Board of Commissioners. A board of county commissioners can exercise such powers only as are conferred upon it by the Constitution or the statutes, or such as may arise by necessary implication from an express grant. *Tulsa St. Ry. Co. v. State*, 26 Okla. 559; 110 Pac. 373.

Counties—power of board of commissioners—grant of franchise to railroad. It is beyond the power of a board of county commissioners to enter into a contract and grant a franchise to an electric street railway company to construct its line over the public highways of a county, and therein grant terms and make conditions absolving and relieving it from the general supervision, regulation, and control conferred by the Constitution upon the Corporation Commission over such companies. *Id.*

Appeal and error—order of Corporation Commission—remand for additional evidence. Where, on appeal from an order of the Corporation Commission, evidence is lacking reasonably sustaining certain material findings, but it is made to appear in the record that the same probably exists, the said order will not necessarily be reversed and the case closed, but, where justice requires it, the same will be reversed and remanded to enable the parties to produce such evidence on which a new order may be predicated. *Id.*

Carriers—live stock shippers—dipping of cattle—compensation—"public service." The dipping of cattle in its vats by a railroad company engaged in transporting cattle over its line from points below the quarantine line, to points above the quarantine line before the same were turned loose in pastures, when such dipping was pursuant to quarantine regulations prescribed by law, is so cognate to and involved in the carriage and delivery of such cattle by the railroad company to patrons along its line as to constitute a part of its public service.

(a) This service is a public service, within the meaning of the Constitution of this state, and is subject to the superintending power of the state.

(b) The Corporation Commission has the power, under Sec. 18, Art. 9 of the Constitution (Sec. 234, Williams' Ann. Const. Okla.), to fix a reasonable charge to be paid by the patrons to the railroad for such service. *Midland Valley Ry. Co. v. State et al.*, 35 Okla. 672; 130 Pac. 803.

Carriers—regulation—maintenance of public service "facilities"—telephones. The telephone is an indispensable aid in the conduct of the business of a common carrier at any center of population, and has become a necessity, both within the rule of the common law, as well as by the provisions of Sec. 18, Art. 9 (Sec. 222, Bunn's Ed.; Snyder's Ed. p. 238), of the Constitution of Oklahoma. *A. T. & S. F. Ry. Co. v. State et al.*, 23 Okla. 210, 100 Pac. 11.

Same—evidence. With only one railroad station in a town having one telephone exchange, and an inland town about six miles distant with about 300 population having a telephone exchange, said town receiving all of its freight by the way of said station and a telephone installed and maintained in said station, connected with both exchanges, it appearing that the installing and maintaining of such telephone would be to the convenience of the patrons of said railroad station, the order of the Corporation Commission requiring a telephone to be installed and maintained in said station will not be disturbed in this court. *Id.*

Railroads—order of Corporation Commission—installing telegraph service—reasonableness. An order of the Corporation Commission, requiring a railroad company to install telegraph service at one of its stations for the sole purpose of bulletining its passenger trains, made without any findings of fact or evidence as to the extent of passenger traffic at said station, or the amount of approximate amount of the receipts therefrom, **held**, error, where it was shown that such additional service would require an increase in the expenses of the company for maintenance of the station of from 75 to 100 per cent. *St. L. & S. F. Ry. Co. v. Newell et al.*, 25 Okla. 502; 106 Pac. 818.

Railroads—telegraph service—Corporation Commission—orders—reasonableness. An order of the Corporation Commission requiring a railroad company to install telegraph service at one of its stations for the sole purpose of bulletining its passenger trains, made without any finding of facts or evidence as to the extent of the freight or passenger traffic, or either at said station, or the amount of the approximate amount of the receipts therefrom, **held**, error, where it is shown that such additional service would increase the expenses of the company for maintenance of the station more than 100 per cent. *Kansas City Southern R. Co. v. State et al.*, 27 Okla. 806.

Railroads—duty to maintain telegraph stations. A railway company engaged as a common carrier in the transportation business is not required to install and maintain telegraph stations to receive and transmit messages for commercial purposes, independent of its business as such common carrier. *Atchison, T. & S. F. Ry. Co. v. State et al.*, 23 Okla. 231, 100 Pac. 16.

CORPORATION COMMISSION—POWERS AND DUTIES

Same—commercial facilities—duty to maintain. A railway company is required to furnish all necessary equipment and facilities for the discharge of its duties as a common carrier; but when such are not reasonable and necessary for such purpose, it is not, independent of its duties as a common carrier, to be required to furnish them, that the public may, commercially, derive convenience therefrom. *Id.*

Property—valuation—method of obtaining. What a telephone company is entitled to demand in order that it may have just compensation is a fair return upon the reasonable value of its property as a going concern, as distinguished from its physical value as a mere naked plant. This value is not obtained by adding up a number of separate items, but by taking a comprehensive view of each and all of the elements of tangible property and intangible, including property rights, and considering them all, not as separate things, but as inseparable parts of one harmonious entity, and exercising the judgment as to the value of that entity. *Pioneer Tel. & Tel. Co. v. State*, 167 Pac. 995.

Rates—rate case—findings of Corporation Commission. Where in a rate case against a telephone company whose lines extend throughout the state, it is charged that the exchange rates of a single municipality are unreasonable, the Corporation Commission in finding a basis for the adjustment of such rate should, as far as practicable, separate the valuation of the toll plant from the value of the exchange plant and equitably apportion between them the value of the property used in common in giving both classes of service. *Id.*

Rates—evidence—fund for counteracting depreciation. Where the evidence shows and the commission finds that the plant is kept in a high state of efficiency, and charges are made in rates for the purpose of counteracting or preventing depreciation by replacement, no necessity exists for building up a fund to be used for the purpose of counteracting purely theoretical depreciation. *Id.*

Telegraphs and telephones—regulation by commission—validity of order. Record examined, and held that, under the issues joined and the notice served, the only order the commission is empowered to enter is to the effect that from and after a certain date the patrons of the telephone company at Muskogee must have efficient service. *Pioneer Tel. & Tel. Co. v. State et al.*, 38 Okla. 412; 133 Pac. 476.

Telegraph and telephones—Corporation Commission—jurisdiction—orders. Complainants are mutual telephone companies, organized and operated in the vicinity of Cherokee, Okla. The expense of building and operating the lines is paid by contributions from the stockholders and subscribers. In their dealings and intercourse with defendant, complainants are paid a commission for such service rendered. Held, that the Corporation Commission had jurisdiction to entertain a complaint on the part of complainants against defendant, and to make such orders as may be reasonable and just pertaining to the public service. *Pioneer Tel. & Tel. Co. v. State et al.*, 45 Okla. 31; 144 Pac. 1060.

Same—sufficiency of evidence. Complainants own what is known as a "clear wire" connecting certain towns in the vicinity of Cherokee with defendant's exchange at Cherokee. Upon payment by complainants to defendant of a stated amount per month, all rural subscribers are permitted to talk over the line of the mutual companies through defendant's exchange at Cherokee, except the subscribers residing in the towns, referred to and classed as commercial subscribers, who are permitted to talk free over the lines of the mutual companies to any one, except a resident of another town, in which case he is connected over the clear wire owned by defendant, and a message fee of 15 cents is charged. Complainants prayed for an order of the Corporation Commission, requiring defendant to connect the subscribers of the mutual companies residing in said towns when desiring to talk to a resident of another town over the clear wire owned by complainants, and asked that they be permitted to talk without extra charge. Upon a hearing, the Commission made an order, requiring defendant to connect the subscribers residing in said towns, when desiring to talk to residents of other towns within a radius of fifteen miles of Cherokee over complainants' clear wire. Held, error, for the reason there was no evidence before the commission authorizing said order. *Id.*

Same—"mutual company"—"without hire." The term "mutual company," as applied to telephone companies, is not necessarily synonymous with the term "without hire." *Id.*

Sunday—telephones—when service is required. A telephone exchange can be required to be kept open and operated on Sundays only at such time as works of necessity or charity and other lawful acts may reasonably require the use of the same. *Twin Valley Telephone Co. v. Mitchell et al.*, 27 Okla. 388.

Telephones—when service required—reasonable hours. A telephone company is required to operate its exchange during reasonable hours on every day in the week, including Sunday, in order to comply with its charter and franchise obligations. *Id.*

(a) As to what are reasonable hours depends upon the size of the town or village, the number of patrons, and the amount of income and expense, and the demand for service. *Id.*

(b) What may be reasonable hours on a week day may be unreasonable hours on Sundays. *Id.*

Same—hearing before Corporation Commission—evidence. When it is proposed to make an order requiring a telephone company to keep open and operate an exchange in a town of 300 people at every minute during every day of the week, day and night, including Sunday, evidence is admissible to show that

CORPORATION COMMISSION—POWERS AND DUTIES

such could not be done except at a pecuniary loss to the telephone company. *Id.*

(a) Evidence is also admissible to show the reasonable demand for service during the night time of every day in the week, and also during the day time on Sundays. *Id.*

Telegraphs and telephones—regulation—jurisdiction of Corporation Commission. An objection that the Corporation Commission fixed rates without evidence to support the order does not run to the jurisdiction of the Commission to make the order, but to the reasonableness of the order when made. *Western Union Telegraph Co. v. State*, 31 Okla. 415; 121 Pac. 1069.

Constitutional law—due process of law—equal protection of laws—regulation of telegraph companies. A telegraph company is entitled to earn a fair return upon the present value of its property used in the business within the state; and where the Corporation Commission establishes rates that will not admit of such return as, under all the circumstances, is just, its order, establishing such rate, is in violation of the fourteenth amendment of the constitution of the United States. *Id.*

Telegraphs and telephones—regulation—determination of reasonableness. The reasonableness or unreasonableness of rates prescribed by the Corporation Commission for the transmission of messages by a telegraph company within the limits of the state must be determined with reference only to the intrastate business done by the carrier, and to the profits derived from that business. It is by dividing the capital of the carrier invested in the business in proportion to the earnings of each that the amount of capital invested in intrastate business is found, and upon which the carrier is entitled to a fair return. And it is by dividing the total expense of conducting both its interstate and intrastate business on the same basis that the expense of conducting each is found. If the net profits derived from the intrastate business, further reduced by the application of the order, fail to yield a reasonable return on the investment, the order is unreasonable and unjust, and will be reversed. *Id.*

Commerce—subjects of regulation—charges by telegraph companies. An order of the Corporation Commission, which provides: "No extra charge shall be made for delivering a telegraphic message in cities or towns in this state within a radius of two miles from the office of the delivering telegraph company; provided that such point of final delivery is within the corporate limits of such town or city"—applies to incorporated towns and cities only, and is not an unconstitutional interference with interstate commerce, but a valid exercise of the power of the Corporation Commission, not only as to intrastate, but as to telegraphic messages from points without to points within the state. *Id.*

Telegraphs and telephones—regulation—reasonableness. That part of the order which reads: "No telegraph office where messages are received and transmitted for the public shall be discontinued or abolished without first obtaining the consent of the Commission, upon an application duly filed by the said company desiring such discontinuance, wherein shall be stated the reason therefor; it being understood that this refers to the main office, and does not include branches of the main office at any place"—is held to be unreasonable, and is modified, so as to require twenty days' notice to the Corporation Commission of a proposed discontinuance. *Id.*

Telegraphs and telephones—rates—reasonableness—value of plant—interest on capital during construction. When the present value of a telephone exchange plant is being ascertained for the purpose of determining what amount the company is entitled to earn as a fair return upon its investment and such value is ascertained by determining what amount it would cost to reproduce the plant, a reasonable amount for interest on the capital invested in the properties of the plant during period of construction should be allowed. *Pioneer Tel. & Tel. Co. v. Westenhaver et al.*, 29 Okla. 129; 118 Pac. 354.

Same—value of plant—deduction for depreciation. In determining the present value of a telephone exchange plant for the purpose of testing the reasonableness of rates fixed by order of the Corporation Commission by estimating the cost of reproducing the plant, a deduction for depreciation of the physical properties from age and use should be made from the estimated cost of reproduction, or replacement new. *Id.*

Same—going-concern value. In ascertaining the present value of said plant for the purpose of fixing rates that shall be charged for services thereon, the Corporation Commission should not confine its consideration to their valuation of the bare physical plant where such exchange has a large patronage sufficient to pay operating expenses, fixed charges, and some profits, when such patronage has been built up by expenditures of labor and money for a period of time during which the plant was operated at a loss, but these facts should be considered, and a reasonable amount allowed for its earning capacity as a going concern. *Id.*

Corporation Commission—findings of fact—conclusiveness. Findings of fact by the Corporation Commission, based upon any competent evidence supporting same, are presumed prima facie to be correct; but, when any finding is not supported by an abundance, and there is strong evidence to the contrary, this presumption does not prevail. *Id.*

Telegraphs and telephones—rates—allowance for depreciation of plant. A sufficient amount should be allowed from the earnings of a telephone exchange to make good the depreciation of the plant and replace the deteriorated portions thereof, when they become so impaired that they can no longer be made useful by repair. *Id.*

CORPORATION COMMISSION—COURT OF RECORD

Telegraphs and telephones—rates—reasonableness—case. Rates charged by a telephone company for services of a telephone exchange that yield only sufficient revenue to pay operating expenses and fixed charges, including a reasonable amount for depreciation and a return of approximately 5.5 per cent. per annum (less than the legal rate of interest) on the value of the properties used in rendering the service, held not excessive, oppressive, or unreasonable to the public. *Id.*

Telegraphs and telephones—order of Corporation Commission—conclusiveness. A rate having been fixed by the Corporation Commission, and the party affected neither (1) appealed from such order, nor (2) presented an application to the commission to have same set aside, nor (3) invoked equitable powers to enjoin the enforcement of the same in an action in the name of the state by its proper law officer to recover the amount paid in excess of the fixed charges, such party may not plead, in defense thereto, that the charge fixed was unjust and unreasonable and confiscatory. *Pioneer Tel. & Tel. Co. v. State, 40 Okla. 417, 138 Pac. 1033.*

Same—remedies against. If said order was invalid, it was permissible for appellant to directly challenge same (1) by appeal, (2) by application to the commission to set same aside, and (3) by an action in equity to restrain its enforcement. *Id.*

Constitutional law—fixing rates by injunction—jurisdiction. The district courts of the state have not jurisdiction to prescribe and compel by injunction a telephone company to charge a schedule of rates named by the court, pending a hearing and disposition of an application to the Corporation Commission by a customer of the telephone company to prescribe a schedule of rates to be charged by the company in the future. *Pioneer Tel. & Tel. Co. v. City of Bartlesville, 40 Okla. 583; 139 Pac. 694.*

21. Authority of a court of record—administer oaths—compel attendance of witnesses and production of papers—punish for contempt—pending appeal no penalty to be imposed. In all matters pertaining to the public visitation, regulation, or control of corporations, and within the jurisdiction of the commission, it shall have the powers and authority of a court of record, to administer oaths, to compel the attendance of witnesses, and the production of papers, to punish for contempt any person guilty of disrespectful or disorderly conduct in the presence of the commission while in session, and to enforce compliance with any of its lawful orders or requirements by adjudging, and by enforcing its own appropriate process, against the delinquent or offending party or company (after it shall have been first duly cited, proceeded against by due process of law before the commission sitting as a court and afforded opportunity to introduce evidence and to be heard, as well as against the validity, justness, or reasonableness of the order or requirement alleged to have been violated, as against the liability of the company for the alleged violation), such fines or other penalties as may be prescribed or authorized by this constitution or by law. The commission may be vested with such additional powers, and charged with such other duties (not inconsistent with this constitution) as may be prescribed by law, in connection with the visitation, regulation or control of corporations, or with the prescribing and enforcing of rates and charges to be observed in the conduct of any business where the state has the right to prescribe the rates and charges in connection therewith, or with the assessment of the property of corporations, or the appraisalment of their franchises, for taxation, or with the investigation of the subject of taxation generally. Any corporation failing or refusing to obey any valid order or requirement of the commission, within reasonable time, not less than ten days, as shall be fixed in the order, may be fined by the commission (proceeding by due process of law as aforesaid) such sum, not ex-

CORPORATION COMMISSION—REFUNDS

ceeding five hundred dollars, as the commission may deem proper, or such sum in excess of five hundred dollars as may be prescribed or authorized by law; and each day's continuance of such failure or refusal, after due service upon such corporation of the order or requirement of the commission, shall be a separate offense: Provided, that should the operation of such order or requirement be suspended, pending any appeal therefrom, the period of such suspension shall not be computed against the company in the matter of its liability to fines or penalties.

Sec. 19 (237), Art. 19, Const.

Cited, etc. 40 Okla. 417, 138 Pac. 1033; 107 Pac. 929, 30 L. R. A. (ns) 137.

Street railway—violating order to stop car. 33 Okla. 752, 127 Pac. 1085.

Proceedings for contempt. 31 Okla. 476, 122 Pac. 321.

Appeal from order assessing penalty. 33 Okla. 378, 125 Pac. 1103.

22. Commission vested with power of court of record—refunds. The Corporation Commission is hereby vested with the power of a court of record to determine: First, the amount of refund due in all cases where any public service corporation, person, or firm, as defined by the constitution, charges an amount for any service rendered by such public service corporation, person, or firm, in excess of the lawful rate in force at the time such charge was made, or may thereafter be declared to be the legal rate which should have been applied to the service rendered, and, second, to whom the overcharge should be paid.

Sec. 1, Ch. 19, S. L. 1913.

23. Judgment—collection—refunds. Upon ascertaining the amount of overcharge due from any public service corporation, person or firm, the Corporation Commission shall have authority to render judgment against such public service corporation, person, or firm, for the amount of such overcharge that may have been collected from the public in violation of any legal rate, or order of the commission, if necessary to insure the prompt payment of the same to the commission. Such judgment shall be a lien upon the property of the public service corporation, person, or firm, and shall be collected in the same manner that fines and penalties imposed by the Corporation Commission are now authorized to be collected by law, and, when collected, shall be paid immediately by the commission to the parties to whom it is due.

Sec. 2, Ch. 19, S. L. 1913.

24. Appealed orders—additional judgment for expenses of commission—refunds. In all cases where an order fixing rates to be charged by any public service corporation, person or firm, has been appealed from and a supersedeas issued, the Corporation Commission, in making all orders requiring a refund of overcharges during the time the rates or charges were suspended, shall require such public service corporation, person, or firm, to pay, in addition to such refund, all expenses incurred by the Corporation Commission in checking such refund, determining to whom the same belongs, and in delivering the same to the party lawfully entitled thereto.

Sec. 3, Ch. 19, S. L. 1913.

CORPORATION COMMISSION—CONTEMPT PROCEEDINGS

25. Right of appeal—refunds. Any party in interest shall have a right to appeal from any action of the commission to determine the amount of refund due, or to whom such refund shall be made, or from any order or judgment rendered by the commission pertaining to the subject-matter set forth in any of the above sections of this act, in the same manner as appeals are now taken from the Corporation Commission to the Supreme Court.

Sec. 4, Ch. 10, S. L. 1913.

26. Unclaimed refunds—escheat to state. All refunds not paid out by the commission, or unclaimed, within two years from the time the money is received by the commission shall be turned over to the State Treasurer.

Sec. 5, Ch. 10, S. L. 1913.

Telegraphs and telephones—Corporation Commission—jurisdiction—action for refund of excess charges. The Corporation Commission of this state has jurisdiction to entertain an action instituted in the name of the state, through the law officer designated by law to appear before said commission, to recover from a transmission company the refund of excess charges which were collected by it in violation of the rates fixed by said commission.

(a) Such action in the name of the state for the recovery of such refunds for the purpose of the same being distributed to the persons entitled thereto is a police regulation incident to the effective regulation and control of public service corporations by the agencies of the state. *Pioneer T. & T. Co. v. State*, 40 Okla. 417, 138 Pac. 1033.

Statutes—local or special law—Corporation Commission—authority to adjust controversy. The act of February 10, 1913, (Laws 1913, C. 10), entitled "An act conferring authority upon the Corporation Commission to adjust controversies between parties growing out of refunds for public service; to require all refunds to be turned over to the commission; to determine the amount of refund, and to whom due; and declaring an emergency"—is not repugnant to Sec. 460 of Art. 5 (Sec. 123, Williams' Ann. Ed.), of the Constitution of this state. *Id.*

Jury—proceedings before Corporation Commission—jury trial. Appellant is not entitled to a trial by jury in such proceeding before the Corporation Commission. *Id.*

Excessive charges—recovery—voluntary payment. The payment of excess rates for phone services demanded by the transmission company in violation of the fixed orders of the Corporation Commission, which had neither been appealed from nor in any way superseded or suspended, is not voluntary in the sense that the same might not be recovered back from the transmission company by a proper party. *Id.*

27. Contempt proceedings—violating rules of commission. Any corporation, person or firm may be fined by the Corporation Commission, such sum not exceeding five hundred dollars, as the commission may deem proper, for the violation of any of its rules or requirements; and each day's continuance of such violation, after due service upon such corporation, person or firm, of the order or requirement of the commission shall be a separate offense; Provided, that should the operation of such order or requirement be suspended, pending an appeal therefrom, the period of such suspension shall not be computed against the corporation, person or firm, in the matter of its liability to fines and penalties.

Sec. 1192, R. L. 1910.

History. L. 1907-8, p. 228; effective May 29, 1908; 31 Okla. 813, 123 Pac. 1045; 29 Okla. 201, 115 Pac. 769.

Section construed. *St. Louis, etc., R. Co. v. State et al.*, 26 Okla. 62, 80, 107 Pac. 929. Proceeding under this statute quasi-criminal, and should be strictly construed. Verified affidavit must be filed before any proceedings hereunder. *Id.*

Construed. 31 Okla. 505, 122 Pac. 222. Interstate shipments, 33 Okla. 158.

Verifications. 35 Okla. 532, 130 Pac. 910; 31 Okla. 476, 122 Pac. 321.

CORPORATION COMMISSION—CONTEMPT PROCEEDINGS

28. Contempt proceedings, when. In case of failure of any corporation, person or firm, to obey or comply with any order or requirement of the corporation commission, the commission may punish such corporation, person or firm as for contempt. Such contempt proceedings may be instituted by any citizen of this state, or other parties affected by such order, by filing an affidavit with the Corporation Commission, setting forth the acts of omission or failure to comply with such order or requirement. Upon the filing of such affidavit or information above mentioned, it shall be the duty of the commission to forward to such offending corporation, person or firm, a copy of such affidavit or information, and shall also issue citation to such corporation, person or firm, to answer at a time to be fixed in the citation, not less than ten days, nor more than twenty days from the date of the service of said citation.

Sec. 1193, R. L. 1910.

History. L. 1907-8, p. 228; effective May 29, 1908, 35 Okla. 532, 130 Pac. 940. See Sec. 1192, note.

29. Contempt proceedings—pleadings, trial and appeal. If the defendant shall fail to appear or file answer on the day mentioned in the citation, such failure to appear or file answer shall be deemed an admission of the truth of each and every material allegation in such affidavit or information, and the commission may render judgment without further hearing or testimony; or the commission may, in its discretion, require additional evidence before rendering judgment in any case of default. Upon the appearance and filing of answer of the defendant, such appearance may be by plea, demurrer or answer, and when the issue shall have been settled, the commission may hear evidence as to the matters and facts in reference to the alleged violation of the order or requirement, and may continue the hearing from time to time; and the defendant shall be given ample opportunity to introduce proper evidence and be fully heard in the premises. Upon the conclusion of the evidence and arguments of counsel, the commission shall render judgment, a copy of which shall be delivered to the defendant, and the defendant shall have five days from the receipt of copy of the judgment to file its exceptions thereto, and shall be allowed to appeal from the judgment of the commission to the supreme court, as provided in other cases, upon its filing a bond with the commission in double the amount of such fine or judgment, with such security as may be required by the commission. Upon the filing of such bond with the commission and allowing of the appeal, the same shall operate a suspension of the fine and judgment appealed from.

Sec. 1191, R. L. 1910.

History. L. 1907-8, p. 229, effective May 29, 1908. Revision: Order of words changed slightly, latter part of section made a separate section (1195).

Contempt—burden of proof. Where company admits act charged, but defends on ground of no apprehension or mistake, burden on company to establish that act resulted from such cause. *St. L. & S. F. Ry. Co. v. State et al.*, 26 Okla. 761, 119 Pac. 459, 29 Okla. 201, 115 Pac. 769.

Surety's right prior to obtaining a judgment or lien to enjoin principal's transfer of property to defraud him. 15 L. R. A. 680 (1910).

Right of creditor of bankrupt to set aside transfer in fraud of creditors. 10 L. R. A. 61 (1904).

CORPORATION COMMISSION—CONTEMPT PROCEEDINGS

Jurisdiction of equity over suit to set aside fraudulent conveyance of real property in another state or country. 69 L. R. A. 688-n; 27 L. R. A. (ns) 120-n.

Courts—jurisdiction of Supreme Court—contempt of Corporation Commission. Sec. 3 of an act of the Legislature, approved May 29, 1908, entitled, "An act providing for the punishment of any corporation, person or firm for contempt for violation of any order or requirement of the Corporation Commission" (Sess. Laws 1907-08, p. 228), allows an appeal to the Supreme Court by any person, firm, or corporation adjudged guilty of contempt by the Corporation Commission for the violation of its orders. *A. T. & S. F. Ry. Co. v. State et al.*, 31 Okla. 43; 119 Pac. 961.

Courts—jurisdiction—Supreme Court—appeal from Corporation Commission. Said statute was not repealed by act of the Legislature, entitled, "An act creating a Criminal Court of Appeals and defining the jurisdiction of said court" (Sess. Laws 1907-08, p. 291), nor by act of March 2, 1909, entitled, "An act perpetuating the Criminal Court of Appeals," etc. (Sess. Laws 1909, p. 170.) *Id.*

Carriers—Corporation Commission—proceedings for contempt. In the hearing on a complaint against a railroad company for contempt for alleged violation of orders of the Corporation Commission, the commission sits as a court, and its proceedings should be governed and controlled by the same rules of procedure as obtain in courts of justice. *St. L. & S. F. Ry. Co. v. C. H. Cannon & Son et al.*, 31 Okla. 476; 122 Pac. 321.

Same. Where a railroad company is cited for contempt for the violation of an order of the Corporation Commission, a judgment limited in its scope to finding it guilty of a violation of its own tariffs, not based on any charge in the complaint and the citation issued, is erroneous and must on appeal be set aside. *Id.*

Railroads—regulation—contempt proceedings before Corporation Commission—amendment to affidavit. An amendment to an affidavit charging a railway company with having violated a certain order of the State Corporation Commission, so as to make the original affidavit charge the violation of an order other than that charged in the original affidavit must be verified and an order of the Corporation Commission directing that the original affidavit shall be amended and thereupon, over the objection of defendant, proceeds with the trial upon the theory that it has been amended, where such amendment was never made, verified and filed, is reversible error. *St. L. & S. F. Ry. Co. v. State et al.*, 26 Okla. 62, 107 Pac. 929.

Corporation Commission—orders—violation by carriers—contempt—burden of proof. In the proceedings against a railway company for contempt for violating an order of the State Corporation Commission, where the railway company admits the act of violation with which it is charged, but attempts to defend against the proceedings upon the ground that said act was committed through a misapprehension of the order or as a result of a mistake, the burden is upon the company to establish by competent evidence that its acts complained of resulted from such cause. *St. L. & S. F. Ry. Co. v. State et al.*, 26 Okla. 764, 110 Pac. 759.

Carriers—excessive baggage charge—contempt—evidence. In a prosecution of an intrastate carrier for making an excess baggage charge on an intrastate baggage shipment, when the undisputed proof shows that such carrier, or its baggage agent, did not willfully make such excess charge, but that the same was made through an honest mistake, it was error to adjudge such intrastate carrier guilty of contempt. *A. T. & S. F. Ry. Co. v. State et al.*, 31 Okla. 479, 122 Pac. 232.

Carriers—regulation—orders of Corporation Commission—evidence. Where the railway company is charged with not having filed a tariff sheet within the time prescribed by the Corporation Commission, and the evidence shows that such tariff sheet was not so filed, unless the evidence showing such failure to file also discloses that the act of omission was not willful. The presumption of law is that the act was willful. *A. T. & S. F. Ry. Co. v. State et al.*, 33 Okla. 371; 125 Pac. 721.

(a) Such act of omission having been proved by evidence, which did not disclose that it was not willfully done, the burden shifted to the railway company to prove that such act of omission was not willful. *Id.*

(b) Held that under the facts in this record, the Corporation Commission was justified in finding that such act of omission was willful. *Id.*

Carriers—Corporation Commission—contempt proceedings—pleading—jury trial. In a proceeding in contempt for the punishment of a corporation for the violation of an order of the Corporation Commission, pursuant to act May 29, 1908, Sess. Laws Okla. 1907-08, p. 228, verification of the information filed with the commission is waived by answering to the merits. **Held**, further, that in such proceeding the contemnor is not entitled to a trial by jury. *A. T. & S. F. Ry. Co. v. State et al.*, 35 Okla. 532.

Same—appeal from orders of commission—presumption. Evidence examined, and held that the prima facie presumption of reasonableness and justness attending the order of the commission fining appellant for violating rule 6 of order No. 168, requiring carriers to begin the forward movement of freight towards its destination within twenty-four hours after the bill of lading is signed, has not been overcome. *Id.*

Carriers—keeping ticket windows open—violation of Corporation Commission order—sufficiency of evidence. Evidence examined and held sufficient to sustain the findings of the Corporation Commission that one of its orders had been violated. *A. T. & S. F. Ry. Co. v. State*, 47 Okla. 26; 165 Pac. 125.

CORPORATION COMMISSION—CONTEMPT PROCEEDINGS

Same—statutes—penalty—discretion of commission. Sections 1192 and 1193 Rev. Laws 1910, empower the State Corporation Commission to punish as for contempt any railway company violating any of the rules or requirements of the commission, but places a limitation upon such power and the discretion of the commission as to the kind of punishment and amount of fine that may be imposed by the commission by specifying the maximum penalty the commission may assess against a violator of any one of its orders; and so long as the commission does not exceed this limitation, specifically imposed by the statute, where there have been no errors in the proceedings prejudicial to defendant, this court is without power to disturb the judgment of the commission fixing the amount of the penalty. *Id.*

Carriers—regulation—Corporation Commission order—violation—defenses. Where a street railway company is charged with not having complied with the order of the Corporation Commission, which required it to stop its cars at certain stations or street crossings, such omission having been proved to have been willful on the part of the parties in control of said car, **held** that, although the general manager of said company may have instructed its employees in control of such car or cars to observe said order and make said stops, such instructions did not exonerate the appellant. *Okla. Ry. Co. v. State*, 33 Okla. 752, 127 Pac. 1085.

30. Contempt proceedings—suspension bond. If the order violated for which such fine or judgment is imposed shall have been an order promulgating or fixing rates to be charged by public service corporations, persons or firms, it shall be necessary, in appealing from such fine or judgment, for the defendant to give a suspending bond, executed and filed with and approved by the commission, payable to the state, and sufficient in amount and security to insure the prompt refunding by the appealing corporation, person or firm, to the parties entitled thereto, of all charges which such company may collect or receive, pending the appeal, in excess of those fixed or authorized by the order of the commission violated or disregarded by such corporation, person or firm. Such bond shall be conditioned to require such corporation, person or firm, to keep such accounts and to make to the commission from time to time such report, verified by oath, as may in the judgment of the commission suffice to show the amount being charged or received by the company, pending the appeal, in excess of the charge prescribed by the commission in the order violated, together with the names and addresses of persons to whom such overcharges will be refunded in case the charges made by the company pending the appeal be not sustained on the final judgment, and the commission may at any time require such corporation, person or firm to give additional security or to increase the suspending bond when the same may appear to the commission to be necessary to insure the prompt refunding of the overcharges aforesaid. Upon the final judgment, if the order violated is sustained in the Supreme Court, the commission shall distribute such overcharges to the persons to whom the same are due, as provided in Sec. 21, Art. IX, of the constitution: Provided, that if the order violated is one fixing or establishing rates, and the corporation, person or firm shall obey such order and carry its provisions into effect pending such appeal, the last above mentioned bond shall not be required.

Sec. 1192, R. L. 1910.

History. L. 1907 s. p. 229, effective May 29, 1908.
29 Okla. 291, 115 Pac. 769.

31 Contempt proceedings—Supreme Court to give precedence to such appeals. All cases appealed to the Supreme Court from the judgment of the Corporation Commission as herein pro-

CORPORATION COMMISSION—CONTEMPT PROCEEDINGS

vided, shall have precedence therein, except as provided in the constitution, and it shall be the duty of the Supreme Court to advance the same on the docket for immediate consideration and proceed to final judgment without any unnecessary delay.

Sec. 1196 R. L. 1910.

History. L. 1907-8, p. 230; effective May 29, 1908. Revision: Language bettered; "unnecessary" substituted for "necessary."

32. Contempt proceedings—judgment lien—execution. All judgments or fines assessed against any corporation, person or firm, for the violation of any order or regulation as herein provided, shall be a first lien on all property of such corporation, person or firm within this state, and it shall be the duty of the Corporation Commission, if such judgment or fine is not paid within thirty days after the rendition of such judgment or fine, to issue an execution, directed to the marshal of the Corporation Commission, commanding him to seize sufficient property of such corporation, person or firm to satisfy the fine or judgment. And it shall be the duty of the marshal to sell or dispose of properties levied on by reason of an execution issued by the commission, in like manner as now required of sheriffs of this state for the sale of property levied on by virtue of an execution issued on a judgment of a district court.

Sec. 1197, R. L. 1910.

History. L. 1907-8, p. 230; effective May 29, 1908. Revision: "Regulation" substituted for "relinquishment," which was evidently not the word intended.

33. Contempt proceedings—judgment of Supreme Court on appeal. In cases appealed to the supreme court as provided in this article, if the judgment of the commission is affirmed, it shall be the duty of the supreme court, upon entering such judgment, to direct the clerk of the court to deliver to the commission a certified copy of such judgment, and upon receipt of such certified judgment the Corporation Commission shall within ten days, if such judgment and costs shall not have been paid, enter judgment against the sureties on the appeal bond without further notice or hearing, and shall within thirty days from the rendition of such judgment against the sureties of said appeal or suspending bonds, if the same shall not have been paid, issue an execution against the corporation, person or firm, and the sureties of said appeal or suspending bonds as provided in the preceding section. If the judgment of the commission is reversed or modified by the Supreme Court, the same shall be remanded to the commission with instruction to change or modify the former judgment of the commission to conform to the opinion of the Supreme Court. The Supreme Court may remand any case for additional evidence or rehearing, and make such final order or judgment in the case as the court may deem proper.

Sec. 1198, R. L. 1910.

History. L. 1907-8, p. 231.

34. Contempt proceedings—moneys to be paid into the state treasury. All moneys collected by the Corporation Commission under this article shall be paid into the treasury of the state.

Sec. 1199, R. L. 1910.

History. L. 1907-8, p. 231.

CORPORATION COMMISSION—CONTEMPT PROCEEDINGS

35. Contempt proceedings—taxation of costs and fees. In all cases where fines or judgments are assessed against an offending corporation, person or firm for the violation of any order or requirement of the commission, as provided in this article, judgment shall be rendered against the defendant for all costs, which shall include the following: Witness fees at \$1.50 per day, with necessary mileage at five cents per mile, to and from the place of hearing to the residence of the witness; the fees of the marshal to the commission, the same as now allowed to sheriffs for like services in this state; ten dollars docket fee, including all fees for filing and certifying papers and documents, except necessary fee for transcribing the record, ten cents for each folio of one hundred words; and in the Supreme Court the same fees as are charged in cases appealed from the district courts of this state to the Supreme Court.

Sec. 1200, R. L. 1910.

History. L. 1907-8, p. 231; effective May 29, 1908.

36. Contempt proceedings—Attorney General to prosecute. It shall be the duty of the Attorney General to prosecute to final judgment all proceedings instituted under the provisions of this article, for the violation of any of the orders of the Corporation Commission.

Sec. 1201, R. L. 1910.

History. L. 1907-8, p. 232; effective May 29, 1908.

37. Proceedings when no quorum present. At any time a cause is set for hearing and a quorum of the commission is not present at the time set for said hearing, any member thereof may adjourn the hearing to some future time, or said commissioner present may proceed to take the testimony, which shall be transcribed and submitted to the commission before consideration thereof; said testimony so taken shall be submitted to the commission at a time and place fixed by the commissioner taking the same.

Sec. 1202, R. L. 1910.

History. L. 1907-8, p. 232; effective May 29, 1908. Revision: Language improved, "commissioner" substituted for "commission" in last line; latter part of original section made a separate section (1203).

38. Depositions. The commission is authorized to have depositions taken upon the application of either party to any cause pending before it, or upon its own motion; and to designate a person to take depositions under such rules and regulations as may be prescribed by the commission: Provided, that any party to a proceeding before the commission may take depositions in the same manner as in actions pending in the courts of the state.

Sec. 1203, R. L. 1910.

History. L. 1907-8, p. 232; effective May 29, 1908. Revision: Superfluous verbiage eliminated, proviso added authorizing taking of depositions as in ordinary civil cases.

39. Penalty for refusing examination of books. If any officer of any railroad company or other public service corporation, or of any other corporation or any other person, in violation of the provisions of Article IX, Section 28, of the constitution of the State of Oklahoma, shall refuse to permit the corporation commissioners

CORPORATION COMMISSION—BOOKS OF CORPORATIONS

or any person authorized thereto, to examine its books and papers, such officer or other person so refusing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars, and by imprisonment in the county jail for not less than thirty days nor more than one year; and each day such officers or other person shall fail or refuse to permit such examination or investigation shall constitute a separate offense.

Sec. 1204, R. L. 1910.

History. L. 1907-8, p. 233; effective March 28, 1908. Revision: Language improved; separate offense clause placed last.

40. Penalty for refusing examination of books. If any officer of any corporation, in violation of Article II, Section 28, of the constitution of the State of Oklahoma, shall refuse to permit any person authorized by the state to examine its papers, books and files, such officer or other person so refusing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars, and by imprisonment in the county jail for not less than thirty days nor more than one year; and each day such officer or other person shall fail or refuse to permit such investigation or examination shall constitute a separate offense.

Sec. 1205, R. L. 1910.

History. L. 1907-8, p. 233; effective March 28, 1908. Revision: Separate offense clause placed last.

41. Penalty for destroying records. Any person who shall conceal, destroy or mutilate or attempt to conceal, destroy or mutilate any records, books or files of any corporation transacting business in this state for the purpose of defeating, hindering or delaying any investigation, prosecution or suit at law or equity, or any cause of action in any vested rights of any citizen of this state, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state penitentiary for not less than one year nor more than five years.

Sec. 1206, R. L. 1910.

History. L. 1907-8, p. 233; effective March 28, 1908.

42. Penalties under two preceding sections cumulative. Nothing herein contained shall be construed to cancel or alter the penalty now prescribed by the constitution against such corporations for refusing to permit an investigation and examination of its books, records and files.

Sec. 1207 R. L. 1910.

History. L. 1907-8, p. 233; effective March 28, 1908. Revision: "Provided, however, that," at beginning of section, stricken as useless.

43. Appeals—orders superseded—Supreme Court has exclusive appellate jurisdiction—manner of procedure. From any action of the commission prescribing rates, charges, or classifications of traffic, or affecting the train schedule of any transportation company, or requiring additional facilities, conveniences, or public service of any transportation or transmission company, or refusing to

CORPORATION COMMISSION—APPEALS

approve a suspending bond, or requiring additional security thereon or an increase thereof, as hereinafter provided for, an appeal (subject to such reasonable limitations as to time, regulations as to procedure and provisions as to cost, as may be prescribed by law) may be taken by the corporation whose rates, charges, or classifications of traffic, schedule, facilities, conveniences, or service, are affected, or by any person deeming himself aggrieved by such action, or (if allowed by law) by the state. Until otherwise provided by law, such appeal shall be taken in the manner in which appeals may be taken to the Supreme Court from the district courts, except that such an appeal shall be of right, and the Supreme Court may provide by rule for proceedings in the matter of appeals in any particular in which the existing rules of law are inapplicable. If such appeal be taken by the corporation whose rates, charges, or classifications of traffic, schedules, facilities, conveniences, or service are affected, the state shall be made the appellee; but, in the other cases mentioned, the corporation so affected shall be made the appellee. The legislature may also, by general laws, provide for appeals from any other action of the commission, by the state, or by any person interested, irrespective of the amount involved. All appeals from the commission shall be to the supreme court only, and in all appeals to which the state is a party, it shall be represented by the Attorney General or his appointed representative. No court of this state (except the Supreme Court, by way of appeals as herein authorized) shall have jurisdiction to review, reverse, correct, or annul any action of the commission within the scope of its authority, or to suspend or delay the execution or operation thereof, or to enjoin, restrain, or interfere with the commission in the performance of its official duties: Provided, however, that the writs of mandamus and prohibition shall lie from the Supreme Court to the commission in all cases where such writs, respectively, would lie to any inferior court or officer.

Sec. 20 (238), Art. 9, Const.

Applied. Ry. Co. v. Williams et al., 25 Okla. 662, 107 Pac. 428.

This section contemplates that if it did not prove adequate in permitting any aggrieved party to appeal, the legislature should extend the right to the state to intervene and appeal from the order of the commission. In reviewing an order appealed from, it is contemplated that the supreme court in its legislative capacity would consider the matter de novo, except that the findings of the commission should be regarded as prima facie correct and that the order of the commission should be presumed to be just and reasonable. The section presupposes that the commission will have a hearing, and consider the testimony of plaintiff citizen and defendant. It is further presumed that the commission shall be specially skilled in their line of work and that they shall carefully and specially study the transportation question, with a view, not only of reasonably protecting companies in their investments, but that they also may be required to give reasonable service, convenience, facilities and accommodation to the public without discrimination for a reasonable and just compensation. That is the presumption unquestionably that moved the constitution makers to declare the rule that the order appealed from should be regarded as prima facie in fact, reasonable and correct. A. T. & S. P. Ry. Co. v. State et al., 23 Okla. 519, 321, 191 Pac. 262.

Appeal may be taken under this section, first, by the corporation affected; second, by a person aggrieved, third, by state, if allowed by law. G. C. & S. P. Ry. Co. et al. v. State, 26 Okla. 761, 119 Pac. 651.

Orders calling for information, to be utilized by commission, not appealable. A. T. & S. P. Ry. Co. et al. v. State, 27 Okla. 329, 117 Pac. 328.

CORPORATION COMMISSION—APPEALS

The word "manner," as used in this and other sections of the constitution, means either "time," or includes "time." A. T. & S. F. Ry. Co. v. Love et al., 23 Okla. 192, 205, 99 Pac. 1081.

Order requiring report of happening of accident. Appeal will not lie. St. L. & S. F. Ry. Co. v. State et al., 21 Okla. 805, 105 Pac. 351. Followed in A. T. & S. F. Ry. Co. v. State et al., 24 Okla. 807, 105 Pac. 352.

Writ of prohibition—will not be granted to prohibit Corporation Commission from taking jurisdiction where complaint states facts sufficient to confer jurisdiction. A. T. & S. F. Ry. Co. v. Corp. Com., 22 Okla. 106, 98 Pac. 330.

Cited, etc. 40 Okla. 417, 425, 138 Pac. 1033.

Appellate jurisdiction upon the Supreme Court. 31 Okla. 282, 121 Pac. 654.

Classes of corporations included. 31 Okla. 505, 122 Pac. 222.

Orders appealable. 28 Okla. 12, 115 Pac. 1101.

Dismissal of appeal when—order of commission. 28 Okla. 465, 114 Pac. 722.

Writ of prohibition issued to commission. 29 Okla. 523, 118 Pac. 259.

Relocation of stock pens. 31 Okla. 801, 123 Pac. 1047.

Cotton gin company—appeal. 31 Okla. 603, 122 Pac. 163.

Change of depot location. 31 Okla. 509, 122 Pac. 217.

Contempt—appeal. 31 Okla. 43, 119 Pac. 961.

Adequate crossings at street intersections. 28 Okla. 797, 115 Pac. 872.

Appeal when. 25 Okla. 640, 106 Pac. 1108.

Opening highway crossings. 28 Okla. 802, 115 Pac. 874.

Corporation Commission—appeal from orders—procedure. At any time within twelve months from the date a final order is made by the Corporation Commission, any proper party feeling aggrieved may prosecute an appeal therefrom by making application to the chairman of said commission for him, under the seal of said commission, to certify to this court all the facts upon which the action appealed from was based, and which may be essential for the proper decision of the appeal, together with such evidence introduced before, or considered by the commission as may be selected, specified, and required to be certified by any party in interest, as well as such other evidence so introduced or considered as the commission may deem proper to certify, and also a written statement of the reasons upon which the action sought to be appealed from is based, to be filed with the record of the case, which will constitute the record for review in this court. Kansas City Southern Ry. Co. v. Love et al., 23 Okla. 224; 100 Pac. 22.

Same—motion for new trial not necessary. It is not necessary that a motion for a new trial be filed and presented to the commission in order to have this court, on appeal, determine the reasonableness and justness of the order of the commission from which the appeal is prosecuted. Id.

(See also A. T. & S. F. Ry. Co. v. Love et al., 23 Okla. 192; 99 Pac. 1081.)

*Changed to six months by Ch. 18, S. L. 1910-11.

Corporations—powers—public supervision—appeal. The record on appeal from the Corporation Commission consists of the petition or complaint, if there be one, and "notice of the time and place when and where" the action was to be heard, "together with such of the evidence introduced before, or considered by the commission as may be selected, specified and required to be certified, by any party in interest, as well as such other evidence, so introduced or considered as the commission may deem proper to certify," and "a written statement of the reasons upon which the action appealed from was based. Harriss-Irby Cotton Co. v. State et al., 31 Okla. 367; 121 Pac. 642.

Same. When the Supreme Court of this state remands a cause to the Corporation Commission, pending on appeal, on the application of a party thereto, and requires the same to be further investigated by the commission by permitting such party to introduce additional evidence, and after said cause has been remanded on such application, the commission, within the time prescribed sets said cause for hearing at which such evidence may be introduced, the said party takes notice as a matter of law of such setting. Id.

(a) If said cause within the prescribed time has been set for hearing, to take such additional evidence, and the party on whose application said cause was remanded neither having made application to the Commission to set the same for any date certain nor having shown diligence, but being guilty of laches, on a second application for such cause to be remanded for the taking of such evidence, this court in exercising a sound discretion may deny the said second application. Id.

Same. When a party, through surprise, unavoidable casualty, or other sufficient reason, has been prevented from introducing evidence at a hearing before the Corporation Commission, and seeks to have the cause, whilst pending on appeal in this court, remanded for the purpose of being allowed to introduce said evidence, such party should set up, under proper verification, the evidence he desires to have introduced, heard, and considered, so that this court may determine its relevancy, materiality, and competency as to the matters pending on review before it. Id.

(a) Where such evidence has not been so set out, this court, in the exercise of a sound discretion, may decline to have the cause remanded for the taking of such evidence. Id.

CORPORATION COMMISSION—APPEALS

Railroads—regulation—decisions of Corporation Commission—review. Where the question presented for review on appeal by a railway company from an order of the Corporation Commission is whether the commission committed error in ordering the railway company to open up an alleged public highway across the railway company's line of railway by constructing a crossing at the intersection of the street and the railway, the appeal will be dismissed for want of jurisdiction. *St. L. & S. F. Ry. Co. v. Miller et al.*, 31 Okla. 801; 123 Pac. 1047.

Same. Where the question presented for review on appeal by the railway company from an order of the Corporation Commission is whether the commission committed error in ordering the railway company to remove its stock pens from a certain place on its right of way, and to relocate them at another place designated in such order, such order, under section 20 of article 9 of the constitution, is reviewable on an appeal to this court. *Id.*

Same—jurisdiction of Corporation Commission. The jurisdiction of the Corporation Commission does not depend upon the form or sufficiency of any pleading; the test being, not the relief prayed for, but that granted. *Id.*

(a) It is not essential for any petition to be filed, but that notice shall be had on the company or corporations to be affected. *Id.*

Same—regulation—corporation commission—petition. It not appearing from the record that on account of the insufficiency of the complaint or petition or the notice the appellant was surprised or misled, nor any application for continuance on the ground of such insufficiency and surprise, etc., being filed, no prejudicial error appears on review here. *Id.*

Same—review. An order requiring the removal and relocating of stock pens is not only legislative, but also administrative, in its character, and when entered by the Commission is presumed to be reasonable and just; and, when the evidence reasonably sustains such an administrative order, it will not be disturbed on review in this court. *Id.*

Corporation Commission—orders—appeals—parties—carriers. Appeals from certain actions of the Corporation Commission authorized by Sec. 20, Art. 9, Const., may be taken, first, by any corporation whose rates, charges, or classification of traffic, schedule, facilities, conveniences, or services are affected; second, by any person deeming himself aggrieved by the action of the commission; third, by the state, if allowed by law. *G. C. & S. F. Ry. Co. et al. v. State*, 26 Okla. 761; 110 Pac. 651.

Same—parties not affected—dismissal. Where a corporation or corporations appeal from a general order of the commission not directed against any specific company or companies by name, and it does not appear from the record that the rates, charges, or classification of traffic, schedule, facilities, conveniences, or services of such appellant corporation or corporations are affected by the order appealed from, the appeal will be dismissed. *Id.*

Corporation Commission—appeals from orders—jurisdiction of Supreme Court. Section 20, article 9 of the constitution, which provides that, "from any action of the commission prescribing rates, charges, or classifications of traffic, or affecting the train schedule of any transportation company or requiring additional facilities, conveniences, or public service of any transportation or transportation company * * * an appeal * * * may be taken by the corporation whose charges or classification of traffic, schedules, facilities, conveniences, or service are affected," confers appellate jurisdiction upon the Supreme Court in all actions before the Corporation Commission wherein it is sought to regulate the management and operation of transportation companies within the state in the interest of persons who use such companies for the transportation of themselves or their property, and does not apply to actions for the correction of abuses disconnected from such services. *A. T. & S. F. Ry. Co. v. State*, 28 Okla. 797.

Corporation Commission—orders—conformity to pleading. Though a petition may be filed with the Corporation Commission for the regulation of interstate commerce, yet, if the order made thereon has not the effect to interfere with such commerce, it has jurisdiction to enter same; its jurisdiction not depending upon any special form of pleadings, and the test being, not the relief prayed for, but that granted. *St. L. & S. F. Ry. Co. v. Williams et al.*, 25 Okla. 662; 107 Pac. 428.

Corporation Commission—orders—effect of partial invalidity. Where the order is separable, and a part is without error, the other part being erroneous, the former part will be affirmed and the latter reversed. *Id.*

Railroads—Corporation Commission—orders appealable. The repeal of an administrative order made by the Corporation Commission providing for the enforcement of certain penalties against passengers who board trains without purchasing tickets, is not appealable. *A. T. & S. F. Ry. Co. et al. v. State*, 28 Okla. 19.

Commerce—regulation—interstate commerce—order of Corporation Commission—jurisdiction. The jurisdiction of the Corporation Commission is not to be tested by the proposed order, but by the order made. *A. T. & S. F. Ry. Co. et al. v. State*, 14 Okla. 645; 150 Pac. 108.

Carriers—regulation by Corporation Commission—review by courts. An appeal will lie to the Supreme Court of the state from the action of the Corporation Commission prescribing rates, charges, or classifications of traffic or affecting the train schedule of any transportation company, or requiring additional

CORPORATION COMMISSION—APPEALS

facilities, conveniences, or public service of any transportation or transmission company; or refusing to approve a suspending bond, or requiring additional security thereon, or an increase thereof. *St. L. & S. F. Ry. Co. v. State et al.*, 24 Okla. 806, 105 Pac. 351.

Railroads—regulation by Corporation Commission—review by courts. An appeal will not lie to the Supreme Court of the state to review the action of the Corporation Commission in requiring all railroad companies and street car companies operating within the state, upon the happening of an accident, to send report thereof, both by telegraph and mail, to the Corporation Commission at its office in Guthrie. *Id.*

(See also *A. T. & S. F. Ry. Co. v. State et al.*, 24 Okla. 807; 105 Pac. 352.)

Railroads—regulation—orders of Corporation Commission—review. On appeal from an order assessing a penalty under section 18, article 9, Williams' Ann. Const., Okla., against a railway company for an alleged violation of an order of the Corporation Commission, the Supreme Court has jurisdiction to pass upon the power of the commission to make the order violated and whether it is reasonable and just, notwithstanding such an order is not appealable when made. *G. C. & S. F. Ry. Co. v. State*, 33 Okla. 378; 125 Pac. 1103.

Same—interference with interstate commerce—statutory provisions. Order No. 148 of the Corporation Commission is not violative of the commerce clause of the federal constitution, and was not superseded by the act of Congress of May 6, 1910, c. 208, 36 St. at L. 350 (U. S. Comp. St. Supp. 1911, p. 1329). *Id.*

Same—orders of Corporation Commission. As construed by the Corporation Commission, it cannot be said that order No. 148 is unreasonable or unjust. *Id.*

Railroads—Corporation Commission—orders appealable. Order (requiring public service companies to maintain general offices in the state) held not appealable upon the authority of *St. L. & S. F. Ry. Co. v. State*, 24 Okla. 805, 105 Pac. 351; *A. T. & S. F. Ry. Co. v. State*, 24 Okla. 807, 105 Pac. 352 and No. 2029, *A. T. & S. F. Ry. Co. v. State*, 27 Okla. 329, 114 Pac. 721. (*A. T. & S. F. Ry. Co. et al. v. State*, 28 Okla. 465; 111 Pac. 722.) (Reappeal from order No. 265 of the Corporation Commission.)

Corporation Commission—jurisdiction of Supreme Court—appeals from orders of commission—crossings of highways and railroads. Where the only question presented for review on appeal by a railway company from an order of the Corporation Commission is whether the commission committed error in ordering the railway company to open up an alleged public highway across the railway company's line of railway by constructing a crossing at the intersection of the highway and the railway, the appeal will be dismissed for want of jurisdiction. *St. L. & S. F. Ry. Co. v. State et al.*, 28 Okla. 802.

Same—order of Corporation Commission—appeal. An appeal will not lie from an order of the Corporation Commission requiring the correction of an abuse which affects the people of a particular community disconnected from the use of a railway for the transportation of themselves and their property. *A. T. & S. F. Ry. Co. v. State ex rel. West, Atty. Gen.*, 40 Okla. 411; 138 Pac. 1026.

The appeal in the above entitled proceeding is from an order of the Corporation Commission entered in an action before that body concerning the opening up of a public road. As the questions presented to this court for review are the same in principle as the questions involved in *A. T. & S. F. Ry. Co. v. State* and *J. R. Dean, and St. L. & S. F. Ry. Co. v. Lynnlane Township* (ante), which were dismissed at the present term for want of appellate jurisdiction of this court, the appeal in this case will follow the holding of the court in those. The appeal is therefore dismissed for want of jurisdiction. *A. T. & S. F. Ry. Co. v. State et al.*, 28 Okla. 805.

Prohibition—when granted—exercise of judicial powers. Prohibition is the proper remedy, where an inferior tribunal assumes to exercise judicial power not granted by law, or is attempting to make an unauthorized application of judicial force, and the writ will not be withheld because other concurrent remedies exist; it not appearing that such remedies are equally adequate and convenient. *A. T. & S. F. Ry. Co. v. Love et al.*, 29 Okla. 738; 119 Pac. 297.

Prohibition—when writ granted—State Corporation Commission—railroad crossing. In an application for a peremptory writ of prohibition to prohibit the State Corporation Commission from taking jurisdiction in a cause pending before it, where the complaint states facts sufficient to confer jurisdiction on the commission, it will be presumed that the commission will act within the jurisdiction conferred by law, even where the principal relief prayed for may be beyond its control. *A. T. & S. F. Ry. Co. v. Corporation Commission et al.*, 22 Okla. 106, 98 Pac. 330.

Corporations—powers—official supervision—appealability of order. An order made by the Corporation Commission by virtue of section 8812, Comp. Laws 1909 (Sess. Laws 1907-8, p. 756), requiring a gin to be operated by its owner for the accommodation of the public at a fixed price for ginning cotton, is not appealable to the Supreme Court of the state. *Harriss-Irby Cotton Co. v. State et al.*, 31 Okla. 603; 122 Pac. 163.

Telegraphs and telephones—regulations—orders of Corporation Commission. On complaint of *W.* to the Corporation Commission on October 17, 1908, it being shown that appellant charged certain subscribers of the Purcell Telephone Exchange \$1 per month for residence phones and \$2 per month for business phones and other subscribers \$1.25 per month for residence phones and \$2.50 per

CORPORATION COMMISSION—APPEALS

month for business phones, the commission ordered that appellant discontinue the charge of \$1.25 for residence phones and \$2.50 for business phones to certain subscribers, and that all subscribers be charged at the same rate. **Held** without error. *Hine v. Wadlington et al.*, 33 Okla. 173; 124 Pac. 299.

Same—appeal. Subsequently, to-wit, on November 10th, appellant applied to the commission for permission to raise said rates. After a hearing on April 16, 1909, the commission denied appellant's petition. Appellant then prayed this court that the record of the second proceeding be required to be certified by the commission to this court to be considered on the hearing of the appeal from the order of October 17, 1908, which was granted, but no appeal or proceeding in error was ever prosecuted from the order entered after April 16, 1909. **Held**, that this court is without jurisdiction to review said order of April 16, 1909. *Id.*

44. Supersedeas — bond—accounts—reports—additional security—appeals to have precedence. Upon the granting of an appeal, a writ of supersedeas may be awarded by the Supreme Court, suspending the operation of the action appealed from until the final disposition of the appeal; but prior to the final reversal thereof by the Supreme Court, no action of the commission prescribing or affecting the rates, charges, or classifications of traffic of any transportation or transmission company shall be delayed, or suspended, in its operation, by reason of any appeal by such corporation, or by reason of any proceeding resulting from such appeal, until a suspending bond shall first have been executed and filed with, and approved by the commission (or approved, on review, by the Supreme Court), payable to the state, and sufficient in amount and security to insure the prompt refunding, by the appealing corporation to the parties entitled thereto, of all charges which such company may collect or receive pending the appeal, in excess of those fixed, or authorized, by the final decision of the court on appeal. The commission, upon the execution of such bond, shall forthwith require the appealing company, under penalty of the immediate enforcement (pending the appeal and notwithstanding the supersedeas), of the order or requirement appealed from, to keep such accounts, and to make to the commission, from time to time, such reports, verified by oath, as may, in the judgment of the commission, suffice to show the amounts being charged or received by the company, pending the appeal, in excess of the charge allowed by the action of the commission appealed from, together with the names and addresses of the persons to whom such overcharges will be refundable in case the charges made by the company, pending the appeal, be not sustained on such appeal; and the commission shall also, from time to time, require such company, under like penalty, to give additional security on, or to increase the said suspending bond, whenever, in the opinion of the commission, the same may be necessary to insure the prompt refunding of the overcharges aforesaid. Upon the final decision of such appeal, all amounts which the appealing company may have collected, pending the appeal, in excess of that authorized by such final decision, shall be promptly refunded by the company to the parties entitled thereto, in such manner and through such methods of distribution as may be prescribed by the commission, or by law. All such appeals, affecting rates, charge, or classifications of traffic, shall have precedence

CORPORATION COMMISSION—APPEALS

upon the docket of the Supreme Court and shall be heard and disposed of promptly by the court, irrespective of its place of session, next after the habeas corpus, and State cases already on the docket of the court.

Sec. 21 (239), Art. 9, Const.

Cited, etc. 40 Okla. 417, 138 Pac. 1033.

Right to supersedeas. 31 Okla. 367, 121 Pac. 612.

Carriers—Corporation Commission—appeal—suspension bond—conviction on payment of excess charges. Where an express company is required by the Corporation Commission to give an additional suspending bond, pending an appeal from an order of the Corporation Commission prescribing rates, rules, and regulations applicable to intrastate express business, under Act, February 10, 1913 (Laws 1913, c. 10), the commission has the right to require such suspending bond to be conditioned that the express company will pay to the commission for distribution by the commission to the parties entitled thereto, all charges which the express company may collect or receive, pending said appeal, in excess of those fixed or authorized by the final decision of the Supreme Court. *Wells Fargo & Co. Express et al. v. State*, 45 Okla. 115; 144 Pac. 1021.

45. No additional or new evidence to be introduced in the Supreme Court—facts certified—statement of reasons filed—prima facie presumption—justness and reasonableness of order—remand for further report. In no case of appeal from the commission, shall any new or additional evidence be introduced in the Supreme Court; but the chairman of the commission, under the seal of the commission, shall certify to the Supreme Court all the facts upon which the action appealed from was based and which may be essential for the proper decision of the appeal, together with such of the evidence introduced before, or considered by, the commission as may be selected, specified and required to be certified by any party in interest, as well as such other evidence so introduced or considered as the commission may deem proper to certify. The commission shall, whenever an appeal is taken therefrom, file with the record of the case and as a part thereof, a written statement of the reasons upon which the action appealed from was based, and such statement shall be read and considered by the Supreme Court, upon disposing of the appeal. The Supreme Court shall have jurisdiction, on such appeal, to consider and determine the reasonableness and justness of the action of the commission appealed from, as well as any other matter arising under such appeal. Provided, however, that the action of the commission appealed from shall be regarded as prima facie just, reasonable, and correct; but the court may, when it deems necessary, in the interest of justice, remand to the commission any case pending on appeal, and require the same to be further investigated by the commission, and reported upon to the court (together with a certificate of such additional evidence as may be tendered before the commission by any party in interest), before the appeal is finally decided.

Sec. 22 (240), Art. 9, Const.

Harmless error—action of commission, in admitting evidence although erroneous, not reversed if its order be supported by other competent evidence. *Id.* Citing 105 Va. 129, 52 S. E. 852.

Rates—presumption. A rate that is so high as to be practically prohibitive, in the absence of an explanation of necessity, presumed to be unreasonable. *Id.*

Review of findings—presumption. Findings of commission presumed to be reasonable and correct, and where evidence tends to support findings, not disturbed on appeal. *Ry. Co. v. State et al.*, 25 Okla. 715, 107 Pac. 912. Following 24 Okla. 331, 103 Pac. 613; 23 Okla. 210, 100 Pac. 11; 21 L. R. A. (ns) 908; 23 Okla. 510, 101 Pac. 262.

CORPORATION COMMISSION—APPEALS

Order—presumption that order is just and reasonable until contrary appears. Ry. Co. v. Town of Witcher et al., 25 Okla. 586, 106 Pac. 852. Citing 23 Okla. 219, 100 Pac. 11; 24 Okla. 370, 103 Pac. 617.

Evidence reasonably tending to support judgment; not disturbed on appeal. Ry. Co. v. Loftris 25 Okla. 496, 106 Pac. 824. Citing 24 Kan. 228; 18 Kan. 58; 12 Kan. 579.

"Prima facie" defined. It is not contemplated that additional evidence should be considered by the Supreme Court, unless within the discretion of said court the cause should be remanded. The expression means that, in considering the testimony and the record upon which the order was based, the presumption arises in the Supreme Court that the order thereon made is to be regarded as prima facie just, reasonable and correct; such presumption being subject to be overcome by evidence that may be in the record that clearly rebuts same. A. T. & S. F. Ry. Co. v. State et al., 23 Okla. 223, 100 Pac. 11; 21 L. R. A. (ns) 908; 211 U. S. 210, 53 L. Ed. 150.

Side track and flag station. Supreme Court in reviewing action of commission acts in a legislative capacity. A. T. & S. F. Ry. Co. v. State et al., 23 Okla. 510, 101 Pac. 262.

Same. In reviewing such order, court determines whether findings of commission are correct and order reasonable and just, supported by the prima facie presumption in favor of same. Id.

Same—taking without due process of law. Court not restricted to application of this rule. Id.

When evidence fails to overcome proof and presumption is favor of order, same will not be disturbed on appeal. Id.

Motion for new trial not necessary. K. C. S. Ry. Co. v. Love et al., 23 Okla. 224, 100 Pac. 22.

Finding of Corporation Commission—conflicting evidence. Not disturbed on appeal. Ry. Co. v. Williams et al., 25 Okla. 662, 107 Pac. 428.

As to record on appeal, Sec. 5146 governs, except as modified by this section. Id. Following 23 Okla. 192, 99 Pac. 1081; 23 Okla. 224, 100 Pac. 22.

The only way to give effect to this and the following section is to hold that it provides a comprehensive way in which to get the evidence, statement of facts and the conclusions of the commission for review before the supreme court. A. T. & S. F. Ry. Co. v. Love et al., 23 Okla. 192, 204, 99 Pac. 1081; K. C. S. Ry. Co. v. Love et al., 23 Okla. 224, 100 Pac. 22.

What constitutes complete record. The facts upon which the action of the commission was based and which may be essential for the proper decision of the appeal, together with such of the evidence introduced before, or considered by the commission, as may be selected, specified and required to be certified by any party in interest, as well as such other evidence so introduced or considered as the commission may deem proper to certify, and a written statement by the commission of the reasons upon which the action appealed from was based, certified to by the chairman of the commission under its seal, when filed with the record of the case, in connection therewith, constitute the complete record for an appeal to this court to have determined the reasonableness and justness of the action of the commission. Id.

Same—duty of commission under this section. Id.

These provisions borrowed substantially from Virginia. Id.

Case-made. Whether appeal can be taken by—quære. Id.

The clause, "together with a certificate of such additional evidence," etc., construed and applied. Id.

Duty of commission to make findings—failure to do so will not warrant a dismissal of appeal where record shows no findings. M. V. Ry. Co. et al. v. State, 24 Okla. 817, 101 Pac. 1086, and cases cited under Sec. 18, notes. Following 23 Okla. 192, 221, 226, 99 Pac. 1019, 1081; 100 Pac. 22.

Commission directed to certify record, as provided in this section. Id.

Certificate of all the facts means the facts as found by the commission, and not the evidence introduced at the hearing. C. R. L. & P. Ry. Co. et al. v. State et al., 24 Okla. 370, 103 Pac. 617.

Evidence taken pending appeal will be considered as a part of the record. Hine v. Wadlington et al., 27 Okla. 285, 111 Pac. 513.

Same—surprise. Appellant may move to strike. Id.

Findings of fact. Commission must make; although no specific language in constitution to that effect. Section construed. Pioneer Tel., etc., v. Westenhaver et al., 23 Okla. 226, 99 Pac. 1019.

Same—not conclusive but persuasive. Id.

Where commission fails to file with the record of the case a written statement of the facts upon which the order appealed from is based, and such order is affirmed on appeal by the evidence, the same will be set aside. A. T. & S. F. Ry. Co. v. State et al., 23 Okla. 89, 117 Pac. 339.

Findings of facts by commission should be made, showing value of property, gross earnings, expense, and depreciation. Hine v. Wadlington et al., 26 Okla. 259, 109 Pac. 201. Following 23 Okla. 226, 99 Pac. 1019, 24 Okla. 817, 101 Pac. 1086.

CORPORATION COMMISSION—APPEALS

Additional evidence to support findings. Case reversed for purpose of securing. *Tulsa Street Ry. Co. v. State*, 26 Okla. 559, 110 Pac. 373. Citing 25 Okla. 502, 106 Pac. 818.

Telephone—regulation of rates—findings. Where commission neglects to make findings, court may remand case with directions to make findings and certify them. *Pioneer Tel., etc., Co. v. Westenhaver et al.*, 23 Okla. 236, 99 Pac. 1019.

Order directing installation of telegraph service by railroad company at one of its stations, made without finding of fact or evidence to justify same, held error. *K. C. S. Ry. Co. v. State et al.*, 27 Okla. 806.

Prima facie presumption is that finding is just and reasonable, but when finding cannot be sustained on that ground, same will be set aside. *C. R. I. & P. Ry. Co. et al. v. State*, 24 Okla. 370, 103 Pac. 617.

Supreme Court sits as a legislative body on appeal, and applies law to facts. *Id.* Following 23 Okla. 510, 101 Pac. 262.

Prima facie presumption of correctness obtains until overcome or rebutted by the facts in the record, as weighed and found on appeal. Burden on appellant. *Id.* Following 23 Okla. 210, 510, 100 Pac. 11; 191 Pac. 267.

Commission—findings—presumption. Where order of commission assailed solely on ground that the evidence does not entitle order to the prima facie presumption, if there be any evidence reasonably supporting such finding same will not be reversed. *Ft. Smith & W. Ry. Co. et al. v. State*, 25 Okla. 866, 108 Pac. 407. Following 24 Okla. 331, 103 Pac. 613.

Findings—rates in other states, in absence of showing that proposed rate does not afford reasonable compensation, are of probative value. *Id.*

Appeal—orders—presumption and burden of proof. Order presumed to be just, reasonable and correct. Burden on complaining party to prove contrary. *M. K. & T. Ry. Co. v. State*, 21 Okla. 331, 103 Pac. 613.

Cited, etc. 38 Okla. 343, 746, 133 Pac. 27, 134 Pac. 874; 40 Okla. 237, 254, 138 Pac. 382; 150 Pac. 108, 178; 31 Okla. 813, 123 Pac. 1045.

Telegraph companies. 31 Okla. 415, 121 Pac. 1069.

Record on appeal—what consists of. 31 Okla. 367, 121 Pac. 642.

Court may substitute order. 29 Okla. 129, 118 Pac. 354, 38 L. R. A. (ns) 1209-n.

Order—prima facie in favor of. 28 Okla. 109, 610, 114 Pac. 1104, 115 Pac. 770; 28 Okla. 476, 114 Pac. 721.

Jurisdiction Supreme Court appeal. 28 Okla. 109, 114 Pac. 1104.

Case remanded. 28 Okla. 372, 111 Pac. 392, 114 Pac. 1096.

Prima facie presumption—removal stock pens. 28 Okla. 372, 111 Pac. 396, 114 Pac. 1096; 31 Okla. 801, 123 Pac. 1047.

Telephone office, Coalgate. 35 Okla. 209, 128 Pac. 1132.

Telephone—jurisdiction on appeal. 33 Okla. 173, 124 Pac. 299.

Interurban railway fares. 35 Okla. 463, 130 Pac. 151.

Corporation Commission—regulation of carriers—presumption in favor of. Prima facie just, reasonable, and correct, in Sec. 22, Art. 9 (Sec. 235, Bunn's Ed.; Snyder's Ed. p. 259) of the constitution, is a presumption arising upon the finding of the Corporation Commission that the order based upon such facts is presumed on appeal in this court to be just, reasonable, and correct, subject to be overcome or rebutted by the facts in the record, as weighed and found by this court in reviewing the same. *A. T. & S. F. Ry. Co. v. State*, 23 Okla. 210, 100 Pac. 11.

Corporation Commission—orders of commission—presumption. The prima facie presumption of the reasonableness, justness, and correctness of an order of the Corporation Commission, obtained by reason of Sec. 22, Art. 9, of the constitution, applies only to the facts found by the commission, or established by evidence upon which the commission failed to make a finding and, where a fact material to the reasonableness, justness, and correctness of an order is lacking in the finding of facts made by the commission, and is not supplied by the evidence, the presumption obtaining by reason of said section does not apply, and on review in this court such order cannot be sustained. *St. L. & S. F. Ry. Co. v. Newell et al.*, 25 Okla. 502, 106 Pac. 818.

Railroads—flag stations—authority of the Corporation Commission. Under section 18, article 9 (Bunn's Ed., Sec. 222) Const., the Corporation Commission has authority to require a transportation company to establish and maintain a flag station in the performance of its duties as a common carrier. *A. T. & S. F. Ry. Co. v. State et al.*, 23 Okla. 510, 101 Pac. 262.

Same—review by Supreme Court. The Supreme Court of the state of Oklahoma in reviewing an order of the Corporation Commission requiring a transportation company to establish and maintain a flag station, from which an appeal has been taken, acts in a legislative capacity. *Id.*

In reviewing whether or not the order is reasonable and just, the findings of the commission are correct and the order based thereon is reasonable and just, supported by the prima facie presumption in favor of the same. *Id.*

CORPORATION COMMISSION—APPEALS

In determining whether or not the order is reasonable and just, this court is not restricted to the rule that the regulation or order complained of is a taking of property without the due process of law. *Id.*

Same. When the evidence in the record, considered in connection with the prima facie presumption that the finding of the commission is correct and the order made thereon is just and reasonable, fails to rebut and overcome the proof and presumption in favor of such order, the same will not be disturbed on review in this court. *Id.*

Corporation Commission—review—record—findings—presumption of correctness. "All the facts upon which the action appealed from was based, and which may be essential for the proper decision of the appeal" (Sec. 22, Art. 9, Const., Bunn's Ed. Sec. 234; Snyder's Ed. p. 259) means the facts as found by the commission, and does not include the evidence introduced at the hearing. *C. R. I. & P. Ry. Co. et al. v. State et al.*, 24 Okla. 370, 103 Pac. 617.

(a) Facts found by the commission are prima facie correct, and can be overturned only under the rule announced in the cases of *A. T. & S. F. Ry. Co. v. State et al.*, 23 Okla. 210, 100 Pac. 11, and *A. T. & S. F. Ry. Co. v. State et al.*, 23 Okla. 519, 101 Pac. 262. *Id.*

Railroads—telegraphs and telephones—Corporation Commission—orders—setting aside—maintenance of operator at station. The order of the commission, being made upon the facts found, is presumed to be just and reasonable; but when such order, applied to the facts found, cannot be sustained on examination in this court, as being just and reasonable, same may be set aside.

(a) When it is conceded, for the purpose of an order, that the receipts from the commercial telegraph service are inadequate for the maintenance of an operator at a station and there is no finding of facts as to the commercial telegraph receipts at said station during maintenance of an operator there (it appearing that up to less than or about a year prior to the date of the hearing such an operator had been maintained), the order of the commission directing the telegraph company to install and maintain an operator at said station for commercial purposes is not reasonable and just.

(b) A railway company cannot be reasonably and justly required to install and maintain a telegraph operator at such station, unless it is reasonably necessary on account (1) of the safety and the expedition of the train services, both freight and passenger, or either; and (2) of the convenience to be afforded to the public by the railway company in the conduct of its freight and passenger service, or either.

(c) When there is no finding of facts as to the amount of freight receipts at said station, showing what portion thereof goes to lines other than the appellant company, nor as to the passenger receipts, showing also what portion thereof goes to lines other than said appellant, there being no finding, however, that said appellant had been compelled "to phone to other stations for the purpose of securing orders for trains tied up for want of orders" at said station, neither stating how many times, nor whether or not the telephone service was adequate to supply that demand, or the expenses entailed thereby, held, that under such finding such order against the railway company would not be justified. *Id.*

Corporation Commission—orders—presumption of correctness. The prima facie presumption of correctness (section 22, article 9, supra) applies to the facts found, and when there is no finding by the commission on a necessary point and the evidence in the record is indefinite and unsatisfactory, on review here such order will not be sustained. *Id.*

Corporation Commission—orders—review by court. Where an order of the Corporation Commission is assailed on an appeal solely upon the ground that there was not sufficient evidence before the commission to entitle the order to the prima facie presumption of being reasonable, just and correct, obtaining by reason of section 22, article 9, of the constitution, if there is any evidence reasonably tending to support the findings of fact and the order of the commission its order will not be disturbed. *Pt. Smith & Western Ry. Co. et al. v. State*, 25 Okla. 866, 108 Pac. 497.

Corporation Commission—review of findings—presumptions. All actions of the Corporation Commission appealed from having been made by the constitution prima facie, in fact, reasonable and correct, the Supreme Court, when called upon to review such actions, will ascribe to the findings of the commission the strength due to the judgment of a tribunal appointed by law and informed by experience. And in any special case of conflicting evidence a probative force must be attributed to the findings of the commission, which, in addition to knowledge of conditions, of environment, and of transportation relations, has had the witnesses before it and has been able to judge of them and their manner of testimony. *K. C. M. & O. Ry. Co. v. State et al.*, 25 Okla. 715, 107 Pac. 912.

Same—review of orders—burden of proof. On appeal from an order of the Corporation Commission, the presumption obtains by reason of section 22, article 9, of the constitution, that the order is reasonable, just, and correct and he who complains, on appeal of such order, has upon him the burden of establishing the unreasonableness, unjustness, or incorrectness of such order, which he may do by showing that the unreasonableness, of the order appears affirmatively from the facts ascertained by the commission, or that it is shown by evidence in the record, upon which the commission failed to make findings of fact, or upon which the commission erroneously found the facts. *Id.*

CORPORATION COMMISSION—APPEALS

Railroads—order of Corporation Commission—review—burden of proof. On appeal from an order of the Corporation Commission, requiring additional facilities of a railway company, if there is any evidence reasonably tending to support the order of the commission, the prima facie presumption of the order's being reasonable, just, and correct obtains by reason of section 22, article 9, of the constitution, and the burden is upon appellant to overcome that presumption. *A. T. & S. F. Ry. Co. v. State et al.*, 28 Okla. 476, 114 Pac. 721.

Same—reasonableness—evidence. Appellant's evidence examined, and held not sufficient to overcome the prima facie presumption of the reasonableness, justness and correctness of the order appealed from. *Id.*

Carriers—fares—order of Corporation Commission. Appellant's evidence examined, and held sufficient to overcome the prima facie presumption of the reasonableness, justness, and correctness of the order appealed from. *Okla. Ry. Co. v. State*, 35 Okla. 463, 130 Pac. 151.

Corporations—Corporation Commission—findings of fact—review. Where the findings of fact of the commission are based upon any competent evidence, the action (section 22, article 9, Williams' Ann. Const. Okla.) appealed from must be regarded as prima facie just, reasonable, and correct; but when any finding is not supported by any evidence, and there is strong evidence to the contrary, this presumption does not apply. *Midland Valley Ry. Co. et al. v. State et al.*, 38 Okla. 343; 133 Pac. 27.

Carriers—regulation by Corporation Commission—storage of baggage—sufficiency of evidence. Record examined and held to disclose no competent evidence tending to show that the order appealed from is just, reasonable and correct. *Id.*

Presumption on appeal. On appeal from an order of the Corporation Commission, the presumption obtains, by reason of section 22, article 9, of the constitution, that the order is reasonable, just, and correct, and the company which complains on appeal of such order has upon it the burden of establishing the unreasonableness, unjustness, or incorrectness of such order, which it may do by showing that the unreasonableness of the order appears affirmatively from the facts as certified by the commission, or that it is shown by the evidence in the record, upon which the commission failed to make findings of fact, or upon which the commission erroneously found the facts. *St. L. & S. F. Ry. Co. v. Travelers' Corp. of Okla. et al.*, 47 Okla. 374, 148 Pac. 166.

Carriers—carriage of passengers—regulation—order of commission—findings of fact. By Const. Art. 9, Sec. 22, it is made the duty of the Corporation Commission, upon making an order that intrastate passengers on trains, desiring to continue their journey within the state beyond the station to which tickets are originally purchased, shall be permitted to pay the regular fare and no penalty shall be collected in excess of the regular fare, unless the carrier gives them an opportunity to purchase a ticket at the station to where they were originally destined, to make findings of fact upon which the order is based, and, on appeal to this court from such order, to certify the facts found by it to this court. And where the Corporation Commission fails to make and certify such findings of fact, this court may, under said section of the constitution, remand the case to the commission, with directions so to do and to certify the same as stated. *A. T. & S. F. Ry. Co. v. State*, 47 Okla. 645, 150 Pac. 108.

Carriers—order of Corporation Commission—presumption on appeal—rebuttal. On appeal from an order of the Corporation Commission, the presumption obtains by virtue of section 22, article 9, of the constitution, that the order appealed from is just, reasonable, and correct; and the burden is upon the appellant to overcome this presumption, which may be done by showing that the order is unreasonable upon the facts found by the commission, or that the evidence does not support the findings, or that it is shown by the evidence in the record upon which the commission failed to make finding, or that the commission erroneously found the facts. *U. S. Express Co. v. State et al.*, 47 Okla. 656, 150 Pac. 178.

Same—reasonableness of order—express companies. W. lived at M., a point on a line of railway 20 miles east of A., a terminal point thereon. W. was in the habit of shipping \$6,000 in currency and \$5,000 in specie per week during the shipping season, for which the express company charged 40 cents per \$1,000 for currency and 50 cents per \$1,000 for specie. Only one train per day carried express from A. to M., which left A. at 7:45 a. m. The express company refused to accept money for transportation from A. consigned to W. at M., unless tendered before 7 a. m. on the day of transportation, for the reason that it had no burglar-proof safe at A., and would be required to hire a guard at a cost of \$1.50 per night. The Corporation Commission promulgated an order requiring the express company to accept for shipment, on the following day, money in amounts not exceeding \$1,000, when tendered before 5 p. m. **Held**, by the facts shown by the record the order of the commission is reasonable, just and correct. *Id.*

Carriers—Corporation Commission—fixing of rates—validity of order—review. The Corporation Commission in fixing rates, charges, classifications of traffic, and rules and regulations to be observed on intrastate business by the express companies doing business in this state, having heard evidence not only on the "adequate return on investment" theory, wherein evidence was received for the purpose of proving the value of the property devoted to the public service in intrastate business and the revenue derived therefrom and expenses thereon, and also on the "comparison of rate" theory, and the great weight of evidence contained in the record on the "comparison of rate" theory sustains the order

CORPORATION COMMISSION—APPEALS

of the commission, and that in the record on the "adequate income" theory not being so satisfactory and conclusive as to overcome the presumption that the order was prima facie just and reasonable, as supported by the proof on the "comparison of rate" theory, **held**, that on review here the order of the commission will not be disturbed. (In re Intrastate Express Rates, 40 Okla. 237, 135 Pac. 382.)

Carriers—Corporation Commission—order fixing rates—review. An order of the Corporation Commission fixing express rates will not be disturbed on review by the Supreme Court, where there was evidence before the commission to sustain the order, and there is no evidence in the record to overcome and destroy such supporting evidence; the order of the commission being considered on review as prima facie reasonable and just when sustained by any evidence. *Id.*

Carriers—rates—finding of Corporation Commission—evidence. A finding of the Corporation Commission that the rates charged by certain railway companies on shipments of live stock between points within the state are so unreasonably high, compared with charges made for similar service in other states where competing markets are located and for similar service on interstate shipments to such competing markets, as to result in an unjust discrimination against industries and markets located within the state, will not be disturbed on appeal to this court, when there is evidence reasonably tending to support such finding. *A. T. & S. F. Ry. Co. et al. v. State*, 47 Okla. 237, 148 Pac. 144.

Same. An order of the Corporation Commission prescribing a schedule of rates to be charged on shipments of live stock suitable for packing house purposes will not be set aside on appeal as unreasonable, unjust, and confiscatory, where the evidence fails to show the cost of service for which the rates are to be charged, or the capital invested by the carriers and used in rendering such service, and fails to show that said rates will not yield a sufficient revenue to pay the cost of service for which they are charged, and to enable the class of traffic on which they are charged to contribute its fair and just share of the revenue necessary, in addition to paying the expenses of service and general maintenance of the carrier's road, to enable the carriers to receive a reasonable dividend upon the value of the investment used in maintaining said service. *Id.*

Carriers—regulations—orders of Corporation Commission—evidence. Evidence examined, and held sufficient to sustain the justness and reasonableness of the order of the Corporation Commission. *U. S. Express Co. v. State et al.*, 33 Okla. 370, 125 Pac. 448.

Remanded to Corporation Commission for additional evidence. *Wells-Fargo & Co., American Express Co., United States Express Co., and Pacific Express Co. v. State*, 28 Okla. 573.

Carriers—Corporation Commission—delay in delivering freight—contempt—evidence. Evidence examined, and held not sufficient to support the order of the Corporation Commission appealed from. *St. L. & S. F. Ry. Co. v. Coyle et al.*, 21 Okla. 813, 123 Pac. 1045.

Carriers—Corporation Commission—fixing freight rates—findings of fact—appeal. By Sec. 22, Art. 9, of the constitution (Bunn's Ed., Sec. 231), it becomes the duty of the Corporation Commission, upon hearing an order proposed to fix the rates to be charged by a railway company for service for hauling shipments, to make finding of facts upon which the order of the commission is based, and on an appeal from such order, to certify the facts so found by it to this court. *Midland Valley Ry. Co. et al. v. State*, 21 Okla. 817, 101 Pac. 1086.

(a) When the Corporation Commission, in making an order fixing rates which a railway company may charge for hauling intrastate freight, fails to make a finding of facts, and to certify same to the Supreme Court on appeal from such order, such court may, under said section of the constitution, remand the case to the Commission, with directions to find the facts upon which the commission based its order, and to certify the same to the court before the appeal is finally decided. *Id.*

(See also: *K. C. M. & O. Ry. Co. et al. v. State*, 24 Okla. 822, 101 Pac. 1091; *A. T. & S. F. Ry. Co. et al. v. State*, 24 Okla. 821, 101 Pac. 1090; *St. L. & S. F. Ry. Co. et al. v. State*, 24 Okla. 826, 101 Pac. 1088; *St. L. & S. F. Ry. Co. et al. v. State*, 24 Okla. 828, 101 Pac. 1087; *St. L. M. & S. Ry. Co. et al. v. State*, 24 Okla. 831, 101 Pac. 1052; *C. R. I. & P. Ry. Co. et al. v. State*, 24 Okla. 825, 101 Pac. 1093; *M. K. & T. Ry. Co. et al. v. State*, 24 Okla. 832, 101 Pac. 1089; *A. T. & S. F. Ry. Co. et al. v. State*, 24 Okla. 831, 101 Pac. 1089.)

Carriers—rates—regulation—Corporation Commission. An appeal having been presented from an order of the Corporation Commission promulgating rate, rule, and regulation, and the commission having filed in this court its recommendations as to the modifications of said order, and the appellants and appellee appearing and agreeing to submit said appeal on the record and said recommendations, and waiving the filing of briefs, it not being pointed out by specification of error wherein such order so modified would be unreasonable and unjust, **held**, that the recommendations of the commission will be adopted, and that said order will be affirmed as modified under said recommendations. *C. R. I. & P. Ry. Co. et al. v. State*, 35 Okla. 221, 128 Pac. 903.

(See also: *C. R. I. & P. Ry. Co. et al. v. State*, 35 Okla. 214, 128 Pac. 900; 35 Okla. 221, 128 Pac. 901; 35 Okla. 229, 128 Pac. 907; 35 Okla. 233, 128 Pac. 908.)

Telephones—appeals from commission. Section 22, article 9, Williams' Constitution provides: "In no case of appeal from the commission shall any new or additional evidence be introduced in the Supreme Court." The Su-

CORPORATION COMMISSION—APPEALS

preme Court shall have jurisdiction on such appeal to consider and determine the reasonableness and justness of the action of the commission appealed from, as well as any other matter arising under such appeal; provided, however, that the action of the commission appealed from shall be regarded as prima facie just, reasonable, and correct; but the court may, when it deems necessary, in the interest of justice, remand to the commission any case pending on appeal, and require the same to be further investigated by the commission, and reported upon to the court (together with a certificate of such additional evidence as may be tendered before the commission by any party in interest), before the appeal is finally decided." *Pioneer T. & T. Co. v. State*, 167 Pac. 995.

Telegraphs and Telephones—Corporation Commission—order dividing tolls—appeal—disposition of cause. Where, on appeal from an order of the Corporation Commission, there is an absence of competent evidence to support the order, and where the order dividing tolls will result in loss and disadvantage to all parties concerned, and the record contains a proposition for the handling of the telephone business whereby the public would have the same or better accommodations and all the parties concerned would be at less expense and probably derive a profit, the cause should be remanded for a rehearing, on which a new order may be predicated. *Pioneer T. & T. Co. v. State et al.*, 43 Okla. 827, 144 Pac. 599.

Telegraphs and telephones—regulation—power of Corporation Commission. The Corporation Commission of this state has the authority to supervise, regulate, and control a telephone company owned solely by an individual in all matters relating to the performance of its public duties and charges. *Hine v. Wadlington et al.*, 26 Okla. 389, 109 Pac. 301.

Telegraphs and telephones—regulation of rates—procedure—charges. By Sec. 22 of Art. 9 of the constitution (Bunn's Ed., Sec. 234), it is made the duty of the State Corporation Commission, upon hearing a petition for an order to reduce the rates charged by a telephone company for service on its local exchange, to make finding of facts upon which the order of the commission is based, and on appeal to the Supreme Court from such order, to certify the facts found by it to the Supreme Court. *Id.*

Same—remand. When the Corporation Commission upon making an order prescribing the rates which a telephone company may charge for services on its exchange fails to make a finding of facts and to certify the same to the Supreme Court on appeal from its order, the Supreme Court may under said section of the constitution remand the case to the commission, with directions to find the facts upon which the commission bases its order, and to certify the same to the court, before the appeal is finally decided. *Id.*

Corporation Commission—telegraphs and telephones—regulation of rates—appeals—procedure. By section 22 of article 9 of the constitution (Bunn's Ed., Sec. 234), it is made the duty of the State Corporation Commission, upon hearing a petition for an order to reduce the rates charged by a telephone company for services on its local exchange, to make finding of facts upon which the order of the commission is based, and on appeal to the Supreme Court from such order, to certify the facts found by it to the Supreme Court. *Pioneer T. & T. Co. v. Westenhaver et al.*, 23 Okla. 226, 99 Pac. 1019.

Same—remand. When the Corporation Commission upon making an order prescribing the rates which a telephone company may charge for services on its exchange fails to make a finding of facts and to certify the same to the Supreme Court on appeal from its order, the Supreme Court may under said section of the constitution remand the case to the commission, with directions to find the facts upon which the commission bases its order, and to certify the same to the court, before the appeal is finally decided. *Id.*

46. If order reversed, new order to be substituted—pending appeal may act on new facts—no order retroactive. Whenever the court, upon appeal, shall reverse an order of the commission affecting the rates, charges, or the classifications of traffic of any transportation or transmission company, it shall, at the same time, substitute therefor such orders as, in its opinion, the commission should have made at the time of entering the order appealed from; otherwise the reversal order shall not be valid. Such substituted order shall have the same force and effect (and none other) as if it had been entered by the commission at the time the original order appealed from was entered. The right of the commission to prescribe and enforce rates, charges, classifications, rules and regulations affecting any or all actions of the commission theretofore entered by it and appealed from, but based upon circumstances or conditions different from those existing at the time the order appealed from was made, shall not be suspended or impaired by reason

CORPORATION COMMISSION—DEPOTS

of the pendency of such appeal; but no order of the commission prescribing or altering such rates, charges, classifications, rules or regulations shall be retroactive.

Sec. 23 (241), Art. 9 Const.

Telephones—procedure. Court must know number and classes of telephones in use in order to act under this section. Case remanded. Section construed and applied. *Pioneer Tel. etc. v. Westenhaver et al.*, 23 Okla. 236, 99 Pac. 1019.

Order separable—effect. Where order is separable and part is without error, order will be partly affirmed and partly reversed. *Ry. Co. v. Williams et al.*, 25 Okla. 662, 107 Pac. 428.

Cited, etc. 29 Okla. 429, 118 Pac. 354, 38 L. R. A. (ns), 1209-n; 40 Okla. 583, 139 Pac. 694.

47. Depots—passengers—adequate, comfortable and clean—lighted—warmed—freight—suitable. It shall be the duty of each and every railway company, subject to the provisions herein, to provide and maintain adequate, comfortable and clean depots, and depot buildings, at its several stations, for the accommodation of passengers, and said depot buildings shall be kept well lighted and warmed for the comfort and accommodation of the traveling public; and all such roads shall keep and maintain adequate and suitable depots and buildings for the receiving, handling storing and delivering of all freight handled by such roads.

Sec. 26 (244), Art. 9, Const.

Cited, etc. 39 Okla. 677, 136 Pac. 396.

Depot location. 31 Okla. 509, 122 Pac. 217.

Depot, construed. 29 Okla. 553, 119 Pac. 423.

Depots maintained. 30 Okla. 131, 122 Pac. 952, Ann. Cas. 1913 B, 1343.

Removal—new depot. 28 Okla. 372, 111 Pac. 396, 114 Pac. 1096.

ORDER No. 19—Relating to submitting plans, specifications, etc., of depots. The plans, specifications and location of all depots to be constructed in the state by any railroad or railway company, or any change of location of any depot, must be submitted to and approved by the Corporation Commission of Oklahoma before such depots are permanently located or constructed. This order shall be in full force and effect on and after the 15th day of March, 1908. Dated February 12, 1908.

Railroads—establishment of depot—order of Corporation Commission. Evidence examined, and held sufficient to establish the reasonableness and justness of the order appealed from. *Midland Valley Ry. Co. v. State et al.*, 29 Okla. 777, 119 Pac. 412.

Railroads—"station"—"depot." The word "station," as used in Sec. 26, Art. 9, Const., means a place where railroad trains regularly come to a stand for the convenience of passengers, and taking in freight; and the word "depot," in the same section, means a building for the accommodation and protection of railway passengers or freight. *Id.*

Railroads—duties—maintenance of depots. Under Sec. 26, Art. 9, Const., it is the duty of each and every railway company within the state to provide and maintain adequate, comfortable and clean depots at its several stations for the comfort and accommodation of the traveling public and suitable freight depots or buildings for the receiving, handling, storing and delivering of all freight handled by such roads. *Id.*

Railroads—depot facilities—common law. Under the common law, a carrier was under no obligation to provide buildings for the receiving, handling and storing of freight, or for the accommodation of passengers awaiting passage. *St. L. & S. F. Ry. Co. v. Sutton et al.*, 29 Okla. 553, 119 Pac. 123.

Same—constitutional provisions. By Sec. 26, Art. 9 of the constitution of this state, the duty expressly imposed upon every railroad company to provide and maintain adequate, comfortable and clean depots and depot buildings at its several stations for the accommodation of passengers, said depot buildings to be kept well lighted and warm for the comfort and accommodation of the traveling public. *Id.*

(a) And railway companies by said section are further required to keep and maintain adequate and suitable freight depots and buildings for the receiving, handling, storing and delivering of all freight handled by such roads. *Id.*

Same—duties and powers of Corporation Commission. By Sec. 18, Art. 9 of the constitution of the state, the Corporation Commission is not only empowered, but it is also made its duty to require every railroad company to perform the duty imposed upon it by Sec. 26 of said article, the only limitation upon the action of said commission, in such respect, being that it shall be reasonable and just. *Id.*

CORPORATION COMMISSION—DEPOTS

Same—power to specify materials. Said commission being so authorized to require railway companies to establish, construct, and maintain depots, it may, by order, designate the place, and after the plans and specifications are submitted by the railway company, it may approve or reject the same in toto, or reject in part, and amend in part specifying the kind of material to be used, the limitation being that the order in that respect must be reasonable and just. *Id.*

Same—orders of commission—reasonableness—appeal. The plans and specifications and the size of the depot being agreed upon both by the commission and the railway company, the only controverted proposition being as to whether it should be built a frame, as proposed by the railway company, or a cement, or brick, depot, as directed by the Corporation Commission, there being nothing to show that the income from the road will not justify such expenditure out of the current expense fund; **held** that the order of the Corporation Commission directing it to be constructed out of brick or cement will not be disturbed. *Id.*

Railroads—depot facilities—duties and powers of Corporation Commission. By Sec. 26, Art. 9, constitution of this state, the duty is expressly imposed upon every railroad company to provide and maintain adequate, comfortable and clean depot buildings at its several stations for the accommodation of passengers, said depot buildings to be kept well lighted and warmed for the comfort and accommodation of the travelling public. *C. R. I. & P. Ry. Co. et al v. State and Citizens of Walters, — Okla., —, Pac. —, (Decided Oct. 9, 1917.)*

Same. By Sec. 18, Art. 9, constitution, the Corporation Commission is empowered and it is made its duty to require every railroad company to perform the duty imposed upon it by Sec. 26 of said article, the only limitation upon the action of the commission in this respect being that it shall be reasonable and just. *Id.*

Same—power to specify materials. The Corporation Commission may where such order would be reasonable and just prescribe the kind of material to be used in the construction of a depot to be erected by a railway company. *Id.*

(a) The order in this case required the railway company to erect a depot at Walters to be constructed of brick. **Held**, under the circumstances of the case, that the order was reasonable and just and that said order did not deprive the railway company of its property without due process of law. *Id.*

Railroads—regulation—Corporation Commission—station facilities—sufficiency of evidence. Evidence examined, and **held** sufficient to support the findings of the commission to the effect that the present union station facilities at Durant are inadequate, and that the population of the city, its importance as a business center and the passenger business of the railways entering it, and the receipts derived therefrom, all justify a union station of the character required by the order appealed from. *M. K. & T. Ry. Co. et al. v. State et al., 38 Okla. 401, 133 Pac. 35.*

Same—reasonableness of order. In a proceeding before the Corporation Commission, wherein is involved the selection of a site for a union station at a populous city having three railways, the question of the safety of the employes and patrons of the railways affected should be paramount, and if on appeal it appears from the record that it has been ignored, or, if considered, **held** to be subordinate to another consideration which affects only certain operating difficulties of an ordinary nature of one of the railways, an order of the commission with the latter as a basis must be **held** to be unreasonable. *Id.*

Railroads—regulation—orders of Corporation Commission. The Corporation Commission of the state made an order requiring a railway company to construct a new depot at the town of N. on the site of the old one. The railway company petitioned to construct it on the block adjoining that site, setting up a number of reasons showing its greater desirability from an operating standpoint, and that as a facility it would not only better serve the patrons of the road, but its location would be safer to people crossing the tracks and patronizing the company. The commission conceded in its order that, if considered from an operating standpoint alone, the claims of the company should outweigh any others advanced, but denied the petition for the reasons that the citizens of N. objected to the removal of the depot, and claimed that the same was more conveniently located to the business and main portions of the city, and that property had been bought and values maintained because of its location, which values would be materially disturbed in the event of removal. From such order appeal was taken, and it is **held** that the petition for modification should be granted because the considerations entertained and **held** controlling by the commission, and on which it denied the prayer of the petition, were not such as were entitled to recognition, and offered no proper basis for the order made, which, under the established facts, was unreasonable and without legal sanction. *St. L. I. M. & S. Ry. Co. v. State, 31 Okla. 509, 122 Pac. 217.*

Railroads—location of depot—order of Corporation Commission—validity—evidence. The Corporation Commission of the state made an order requiring the railway company to move its freight depot to the side of the track next to the town. The company complied with the order removing the freight depot, and appealed from the order as to the other requirements. **Held** that the evidence justified the order in requiring the construction of a new passenger depot, but that the safety of the traveling public and the employes would be best served by the location of the depot as proposed by the company, and that under the facts and circumstances in this case, the order requiring the location of the depot on the side of the railroad next to the town is unreasonable and without legal sanction. *K. C. S. Ry. Co. v. Redwine et al., 43 Okla. 610; 143 Pac. 847.*

CORPORATION COMMISSION—DEPOTS

Carriers—Corporation Commission—powers. By Sec. 18, Art. 9, Williams' Const., the Corporation Commission is vested with the power of regulating and controlling all transportation and transmission companies doing business in this state in all matters relating to their public duties. *M. O. & G. Ry. Co. v. State et al.*, 156 Pac. 1155.

Railroads—location of depots—control by Corporation Commission. The public duties of a railway company in reference to its depot facilities are set forth in section 26, article 9, Williams' Const., in which it is required to provide and maintain adequate, comfortable and clean depots and depot buildings at its several stations for the accommodation of the traveling or railroad-using public; therefore, the facts and elements to be taken into consideration by the Corporation Commission in determining the location of a railway depot must be those which relate to and deal with the consideration above set forth. *Id.*

Railroads—location of depots—control by Corporation Commission. If, however, these considerations are ignored, or, if, considered, are held to be subordinate, and other elements are considered as paramount, which are aside from either the public duty, or the interest of the traveling or railroad-using public, or the necessities of the operation of the railroad, then an order made with the latter for a basis must be held to be unreasonable and without legal sanction. *Id.*

Corporation Commission—reasonableness of orders—review—presumptions. The prima facie presumption of the reasonableness, justness and correctness of an order of the Corporation Commission, obtained by reason of section 22, article 9, constitution, applies only to the facts found by the commission, or established by evidence upon which the commission failed to make a finding; and, where a fact material to the reasonableness, justness and correctness of an order is lacking in the finding of facts made by the commission, and is not supplied by the evidence, the presumption obtained by reason of said section does not apply, and, on review in this court, such order cannot be sustained. *St. L. I. M. & S. Ry. Co. v. State*, 28 Okla. 372; 111 Pac. 396; 114 Pac. 1096.

Railroads—depots—improvement—authority of Corporation Commission. A railway company is ordered by the Corporation Commission to remove from its present site a frame depot building which for 19 years it has been using for freight and passenger business, and to replace it with a modern structure to be built according to plans and specifications to be approved by the commission, giving as its opinion in its findings that one month's income from that station, freight and passenger, amounting to \$25,000, would be a reasonable amount to be expended. The company, conceding that its present facilities are inadequate, has constructed a separate freight depot, and offers to remodel the present frame structure by enlarging the passenger accommodations, making them adequate to meet all the demands of the station, heat and light it with gas, and to make it a comfortable depot for the use of its patrons, all of which it claims to be able to do at an expense of \$600 to \$700. This offer is by the commission rejected. Held, that under Sec. 26 of Art. 9, of the constitution, railway companies are required to provide and maintain adequate, comfortable and clean depots and depot buildings at their several stations for the accommodation of passengers, which are to be kept well lighted and warmed for the comfort and accommodation of the traveling public, and the Corporation Commission of the state, while having plenary authority to enforce these provisions, cannot reject and require the removal of a depot building which meets or which a company offers to make meet these requirements, and arbitrarily order a new and comparatively expensive building erected in its place. *Id.*

Corporation Commission—review of orders—remand for more evidence. The Supreme Court may, when it deems it necessary, in the interest of justice, remand to the Corporation Commission any case pending on appeal in said court, and require the same to be further investigated by the commission and reported upon, and such additional evidence as may be tendered thereon before said commission by any party in interest to be certified to said court before such appeal is finally determined. *Id.*

Railroads—proceedings to require establishment of depot—review—harmless error. Admission of incompetent evidence in a proceeding before the State Corporation Commission to require a railway company to establish and maintain a depot and agent at one of its stations is not ground for reversal of an order requiring such facilities and service, where the action of the commission is supported by other sufficient competent evidence. *M. K. & T. Ry. Co. v. State*, 24 Okla. 331, 193 Pac. 612.

Corporation Commission—orders—appeal—presumptions and burden of proof. On appeal from an order of the Corporation Commission, the presumption obtained by reason of Sec. 22, Art. 9, of the constitution, that the order is reasonable, just and correct, and he who complains on appeal of such order has upon him the burden of establishing the unreasonableness, unjustness, or incorrectness of such order, which he may do by showing that the unreasonableness of the order appears affirmatively from the facts as certified by the commission, or that it is shown by evidence in the record, upon which the commission failed to make finding of fact, or upon which the commission erroneously found the fact. *Id.*

Railroads—establishment of depot—reasonableness. It is a prepay freight station on a line of railway, about two and one-half miles from a regular station on one side and about three miles from a regular station on the opposite side

CORPORATION COMMISSION—DEPOTS

It has a population of 750 people, and its corporate limits are surrounded by a settlement consisting of 250 people. The railway company also stopped its passenger trains at said station to permit passengers to depart from, and to receive passengers on, its trains. The earnings of the company from the business at such station were specifically accounted for at an amount exceeding \$300 per month, and it was shown that other earnings were derived by the company from business at said station, the exact amount of which was not shown, and that the amount of business at said station would be increased by establishing and maintaining a depot and agent. Upon these facts the Corporation Commission made an order requiring the railway company to establish and maintain a depot and agent at P. In opposition thereto, the railway company introduced evidence showing that such an order would require an additional expense of \$400 or \$500 to build a suitable depot and would require the employment of an agent, but failed to show the expense of such agent, and failed to introduce any other evidence to show that the maintenance of such depot and agent could be made by the company only at a loss. **Held**, that such evidence was insufficient to overcome the presumption of reasonableness and justness of the order of the commission. *Id.*

Railroads—flag stations. A petition was filed for the establishment and maintenance of a depot and agent at W. This was denied by the commission. An appeal was prosecuted therefrom. **Held**, that the same should be granted to the extent of requiring the erection and maintenance of a spur or switch at which one train each way each day should be stopped on flag for the embarking and disembarking of passengers and the delivering of prepaid freight and receiving of shipments, where the freight was permitted to be paid at the point of destination. *Stepp et al. v. Wichita Falls & N. W. Ry. Co.*, 29 Okla. 71, 116 Pac. 1012.

Railroads—order of Corporation Commission—review—sufficiency of evidence. Evidence examined and **held** that the presumption that an order requiring appellant to remove its station from its present location north of the platted part of the town of R. to a point south of Main street to be agreed upon by appellant and the citizens of the town, and, upon their failure to agree, by the Corporation Commission, and requiring appellant to build a house track not less than 600 feet long, is *prima facie* just, reasonable, and correct has not been overcome. *A. T. & S. F. Ry. Co. v. Levick et al.*, 38 Okla. 746, 134 Pac. 874.

Same—evidence. In determining the question of whether an order of the Corporation Commission presumed to be *prima facie* just, reasonable, and correct is overcome by the evidence, an affidavit filed before the commission in support of a motion for a new trial cannot be considered by us, as the same was not in evidence before the commission, and hence the facts therein alleged did not enter into the facts upon which the order appealed from was based. *Id.*

48. Bulletining trains—railroad agent must report trains. Any agent or employee of any railroad or railway company having charge of any station of such company, or whose duty it is to give information with reference to the trains of such company, who shall wilfully fail to post notice of the time of arrival of any passenger train in conformity with the orders and rules of the corporation commission or any statute, or who shall fail to correctly report to any person, firm or corporation making inquiry either in person or by telephone of the time when any passenger train will arrive at such station, shall be punished by a fine of not less than twenty-five dollars and not more than one-hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment: Provided, that the failure of any passenger train to reach such station at the time given by any such agent or employee shall be *prima facie* evidence that such agent or employee wilfully failed or neglected to correctly report the same.

Sec. 2539, R. L. 1910.

History. Section suggested by Corporation Commission.

ORDER No. 4—relating to bulletining trains, clean depots, etc. It is hereby ordered by the Corporation Commission of the State of Oklahoma: That all railroads doing business in this state shall be governed by the following rules, regulations and orders in the operation of passenger trains and the maintenance of proper passenger and freight depots, depot facilities and accommodations:

1st. It shall be the duty of every railroad and railway company operating a railroad in this state to place a bulletin board in a conspicuous place at each of its ticket offices, upon which shall be bulletined the time that each train, upon which passengers are hauled, is due to arrive and depart under its published schedule.

BULLETINING TRAINS—RAILROADS TO INTERSECT

2nd. It shall be the duty of each railroad or railway company, at each telegraph station on its line where tickets are sold, as early as possible, and not less than one hour before the time that its said trains are due to arrive at such stations, to bulletin the facts upon such board, as to whether or not said train is on time, and if behind schedule time to state, as nearly as can be approximated, the time it is behind, and to thereafter rebulletin every report of any change, not to exceed thirty (30) minutes until the arrival of such train, and to open waiting room, ticket window and baggage room one hour before schedule time of arrival of trains.

3rd. Whenever there is, by reason of accident or otherwise, a break or obstruction on any railroad, which will delay any passenger train on said railroad, it shall be the duty of such railroad or railway company operating such railroad to cause to be bulletined, at all of such stations, the fact of such break or obstruction, and the point of its occurrence, and the probable delay by reason thereof, and the passengers aboard such train shall be informed of the probable delay.

4th. It shall be the duty of each and every railroad or railway company operating a railroad within this state, to promptly file with this commission copies of all rules, orders and schedules, fixing the time and manner of the operation of its passenger trains.

5th. It is further ordered by the Corporation Commission of the state of Oklahoma that all railroad or railway companies doing business in this state shall maintain adequate, comfortable and clean depots and depot buildings, at its several stations, for the accommodation of passengers, and said depot buildings shall be kept well lighted within waiting rooms and outside where the convenience of the passengers require it; such waiting rooms shall be kept properly warmed and ventilated for the comfort and accommodation of the traveling public; such depots or waiting rooms shall be kept open to the ingress and egress of all passengers and others entitled to go therein, for a time not less than one hour before the arrival and after the departure of all trains upon which passengers are hauled, and shall be provided with good and wholesome water for drinking purposes; all closets and toilet rooms in such depots or at such stations shall be kept in a clean and sanitary condition, and shall be kept well lighted, as is required of waiting rooms.

6th. The commission hereby orders that all station agents be advised as to this order and its requirements and directed to comply with the same, and to extend to the traveling public every courtesy and furnish all information pertaining to the transaction of their business with the public. Politeness on the part of employes will be appreciated by the travelling public as well as by the commission.

7th. A copy of this order, printed in 18-point Devinne poster type, shall be posted in a conspicuous place in all waiting rooms, and kept therein.

8th. Any railroad or railway company operating a railroad in this state failing to carry out the above order shall be dealt with as provided by Sec. 19, Art. 9, of the constitution of Oklahoma.

This order shall be in full force and effect on and after the 20th day of January, 1908.

49. Railroads, oil pipe, express, telephone and telegraph lines—right to construct, operate, connect, intersect and cross. Every railroad, oil pipe, car, express, telephone or telegraph corporation or association organized or authorized to do a transportation or transmission business under the laws of this State for such purpose, shall, each respectively, have the right to construct and operate its line between any points in this State, and as such to connect at the State line with like lines; and every such company shall have the right with its road or line, to intersect, connect with, or cross any railroad or such line.

Sec. 2 (218), Art. 9, Const.

32 Okla. 665, 123 Pac. 428.

50. Grade crossing—interlock or safety devices—expenses. In case any railroad company shall hereafter seek to cross at grade with its track or tracks the track or tracks of another railroad the railroad seeking to cross at grade, within a reasonable time shall be compelled to interlock or protect such crossings by safety devices, to be designated by the commission, and all costs of appliance, together with the expenses of putting them in, shall be borne equally by each

PHYSICAL CONNECTIONS—UNION DEPOTS

company: Provided, that this act shall not apply to crossings of sidetracks.

Sec. 27 (245), Art. 9, Const.

Construed. in connection with Sec. 18, which see. *Ry. Co. v. Richardson et al.*, 25 Okla. 640, 106 Pac. 1108.

51. Railroads to maintain connections. Every railroad company operating a railroad in this State shall make such physical connections, transfers and switching facilities at all junction points and at all incorporated towns where one or more railroads enter or are included in said town, as may be ordered and directed by the Corporation Commission of this State: Provided, that the Corporation Commission is also hereby authorized, when the public interests can be promoted, to require physical connections between two or more lines of railways, where the same is practicable, regardless of whether the roads cross one another or not.

Sec. 1189, R. L. 1910.

History. L. 1907-8, p. 226.

29 Okla. 640, 119 Pac. 117; 28 Okla. 746, 115 Pac. 867.

52. Power of Commission to order connections, depots, etc. The Corporation Commission shall have full power, and it shall be the duty of said Commission, to investigate all complaints in reference to the physical connections, transfers, depots and switching facilities at all junction points and incorporated towns, villages and communities, and upon investigation of such complaint or upon its own motion, the said commission may require any railroad companies to make such physical connections or to establish and maintain union depots, transfer and switching facilities as the public interests may require: Provided, however, that the Corporation Commission may make its order requiring such physical connections, transfer and switching facilities in any incorporated town on condition that such necessary additional rights of way therefor be furnished the railroad company making such physical connections free, or at such reasonable cost as in the judgment of the Commission may be fair and reasonable to the people and such companies.

Sec. 1190, R. L. 1910.

History. L. 1907-8, p. 226.

28 Okla. 746, 115 Pac. 867.

May railroad companies be required to establish and maintain a station that will not pay expenses? 26 L. R. A. 444-n.

53. Expenses of same prorated. The expenses incurred in the construction and maintenance of the physical connections, union depots, transfer and switching facilities mentioned in the preceding sections of this article, shall be borne by the companies operating the different lines of railroad, as such companies may agree, and in case of disagreement, the Corporation Commission shall determine the expense to be borne by each, from which order the railroad company or companies may appeal, as in other cases provided.

Sec. 1191, R. L. 1910.

History. L. 1907-8, p. 227.

28 Okla. 746, 115 Pac. 867.

Railroads—regulation by Corporation Commission—statutory provisions. The act of May 20, 1908 (Laws 1908, c. 18), does not extend the jurisdiction of the Corporation Commission beyond the metes and bounds fixed by Art. 9, Sec. 18, of the constitution, nor alter, amend, revise or repeal sections of the constitution from 18 to 34, inclusive, but is auxiliary and supplemental to said Sec.

INDUSTRY SPUR—SWITCH TRACK

18, and provides a remedy for the enforcement and protection of certain rights thereby secured, and by legislative construction defines those rights so that their exact limits may be known. *M. O. & G. Ry. Co. v. State*, 29 Okla. 640, 119 Pac. 117.

Constitutional law—construction—legislative construction—"public facilities"—"public conveniences"—union depots. A clause in the constitution and act passed by the first legislature after the adoption of the constitution, relating to the same subject, like statutes in pari materia, are to be construed together. And where such act impliedly construed "public facilities" or "public conveniences," as used in Art. 9, Sec. 18, to include a union passenger depot, such contemporary interpretation is entitled to great weight, and in this instance, being correct, will not be disturbed. *Id.*

Railroads—regulation—compulsory union depots. The act of May 20, 1908 (Laws 1908, c. 18), requiring every railroad company operating a railroad in this state to make such physical connections, transfer and switching facilities at certain points as may be ordered by the Corporation Commission, and empowering said commission, on complaint or on its own motion, to require such companies to make such physical connections and establish and maintain union depots, etc., as the public interest may require, is a valid exercise of legislative power. And where it appears that appellant was incorporated under the laws of this state, and thus acquired its right of way and station grounds at D., that the effect of the order would be to compel it to fail to comply with the conditions attached to a bonus of \$10,000 to be used in the construction of a depot upon said grounds and abandon its right of way, and, in order to extend its tracks to the union depot ordered operated at D., to deflect its main line of road and run through two elevators, grade an additional roadbed, and curve its track so acutely as to cause delay in handling its trains, all at a cost of about \$50,000, held, notwithstanding, that the act and the proceedings thereunder are valid either as a proper exercise of the police power of the state or as a reasonable exercise of the right reserved to the legislature to amend, alter or repeal the charter of appellant. *Id.*

Statutes—implied powers. Where a power is given by statute, there is carried with it power to do everything reasonably necessary to make it effective. *Id.*

54. Industries to be connected by private switch—cost to be borne by private owner—penalty. Any person, firm or corporation owning or operating any coal, lead, iron or zinc mine, or any saw mill, grain elevator, or other industry, whenever the Commission shall reasonably determine that the amount of business is sufficient to justify the same, near or within a reasonable distance of any track, may, at the expense of such person, firms or corporation, build and keep in repair a switch leading from such railroad to such mine, saw mill, elevator or other industry; such railroad company shall be required to furnish the switch stand and frog and other necessary material for making connection with such side-track or spur under such reasonable terms, conditions and regulations as the said Commission may prescribe, and shall make connection therewith. The party owning such line, saw mill, elevator or other industry shall pay the actual cost thereof. If any railroad company, after proper demand therefor is made, shall refuse to furnish said material for making said connection and put the same in place, or after the building of such switch, shall fail or refuse to operate the same, such railroad company failing and refusing for a reasonable time, shall forfeit and pay to the party or corporation aggrieved, the sum of five hundred dollars for each and every offense, to be recovered by civil action in any court of competent jurisdiction; and every day of such refusal on the part of the railroad company to operate such switch as aforesaid, after such demand is made, shall be deemed a separate offense.

See 27 Okla. App. 9, Const.

Private side tracks—construction. Procedure should be under this section ordered under 29 Okla. App. 1 & 2, *Ry. Co. v. State* et al., 23 Okla. 94, 105 Pac. 991; *A. T. & S. F. Ry. Co. v. State* et al., 21 Okla. 616, 101 Pac. 908.

Switch. Section construed. *Ry. Co. v. Haywood* et al., 25 Okla. 417, 106 Pac. 67. Following 27 Okla. 91, 99 Pac. 991.

INDUSTRY SPUR—SWITCH TRACK

Above case followed in *Ry. Co. v. State et al.*, 25 Okla. 420, 106 Pac. 818.

Side tracks cotton gins. 28 Okla. 746, 115 Pac. 867.

Cited, construed, etc. 25 Okla. 454, 130 Pac. 127; 38 Okla. 554, 134 Pac. 398; 150 Pac. 151.

Cited, construed, etc. 29 Okla. 640, 119 Pac. 117; 40 Okla. 417, 138 Pac. 1033; 28 Okla. 746, 115 Pac. 867.

Industry spur—switch—railroad can be compelled to furnish connection at expense of owner of industry, after spur track has been constructed. *C. R. I. & P. Ry. Co. v. State and Baker*. 157 Pac. 1939.

Carriers—Corporation Commission—“such public service facilities and conveniences as may be reasonable and just.” The phrase, “such public service facilities and conveniences as may be reasonable and just,” as used in Sec. 18, Art. 9, of the constitution (Bunn’s Ed., Sec. 222), means everything incident to the general, prompt, safe and impartial performance of the duties to the public at large imposed by the state, in the proper exercise of its public power, upon transportation or transmission companies. *C. R. I. & P. Ry. Co. v. State et al.*, 23 Okla. 94, 99 Pac. 901.

Same—equal facilities. Section 18, article 9, of the constitution (Bunn’s Ed., Sec. 222), does not require transportation or transmission companies at their own expense to provide such equal facilities and conveniences between private persons or corporations as to overcome or equalize disadvantages caused by dissimilarity of location. *Id.*

Railroads—side tracks—construction. Private persons or corporations desiring the construction of side tracks to accommodate their particular industries should proceed under Const., Art. 9, Sec. 33 (Bunn’s Ed., Sec. 246), requiring such persons or corporations to pay the expense of such construction, and not under Sec. 18 (Bunn’s Ed., Sec. 222), relating to the establishment of public service facilities and conveniences. *Id.*

Same—“unlawful discrimination.” The fact that a railroad permitted the location of an elevator, maintained by a private corporation, on the industrial track on the right of way, does not render its refusal to construct, at its own expense, a side track to a competing elevator, located off the right of way, an unlawful discrimination within Const., Art. 9, Sec. 18 (Bunn’s Ed., Sec. 222). *Id.*

Railroads—private facilities—switches—difference in location. Sec. 18, Art. 9, of the constitution (Bunn’s Ed., Sec. 222), does not require transportation or transmission companies at their own expense to provide such equal facilities and conveniences between private persons or corporations as to overcome or equalize disadvantages caused by dissimilarity of location. *A. T. & S. F. Ry. Co. v. State et al.*, 24 Okla. 616, 104 Pac. 908.

Railroads—construction of side tracks—procedure. Private persons or corporations desiring the construction of side tracks to accommodate their particular industries, except in a case of unjust discrimination, should proceed under Sec. 33, Art. 9, Const. (Snyder’s Const., p. 267), requiring such person or corporations to pay the cost of such construction, and not under Sec. 18, of Art. 9, of the constitution (Snyder’s Const., p. 238), relating to the regulation and control of public service corporations in regard to their public duties. *St. L. & S. F. Ry. Co. v. Haywood et al.*, 25 Okla. 417, 106 Pac. 862.

Same—case. A railway company operating a line of road through a town permitted an elevator to be built on its right of way alongside an established side track. Thereafter complainant made application for permission to place his elevator on the right of way, but not at this or any other side track or where there were any other elevators, which request was denied. He thereafter constructed his elevator off the right of way and made application and secured from the Corporation Commission under and by virtue of Sec. 18 of Art. 9 of the constitution (Snyder’s Const., p. 238) an order requiring the railway company to build a switch from its line of road to his elevator, from which order the company appealed to this court. **Held**, that the making of said order was error, the complainant’s remedy being provided for by Sec. 33 of Art. 9 of the constitution (Snyder’s Const., p. 267). *Id.*

Railroads—construction of side tracks—procedure. Private persons or corporations, desiring the construction of side tracks to accommodate their particular industries, should proceed under Sec. 33, Art. 9 of the constitution (Snyder’s Const., p. 267), requiring such persons or corporations to pay the cost of such construction. *St. L. & S. F. Ry. Co. v. State et al.*, 25 Okla. 420, 106 Pac. 818.

Railroads—side tracks—powers of Corporation Commission. It is beyond the police power of a state to compel a railway company to put in switches at its own expense on the application of the owners of any elevator erected within a specified limit, and Sec. 18 of Art. 9 of the Const. does not attempt to confer such power upon the Corporation Commission. *St. L. & S. F. Ry. Co. v. State et al.*, 27 Okla. 424.

Railroads—side tracks—powers of Corporation Commission. For syllabus see *C. R. I. & P. Ry. Co. v. State et al.*, 23 Okla. 94; *A. T. & S. F. Ry. Co. v. State et al.*, 24 Okla. 616; *St. L. & S. F. Ry. Co. v. State et al.* (ante), decided this term; and *Mo. Pac. Ry. Co. v. Nebraska*, 217 U. S. 196. (*St. L. & S. F. Ry. Co. v. State et al.*, 27 Okla. 426.)

Railroads—side tracks—powers of Corporation Commission. Same as the syllabus in *St. L. & S. F. Ry. Co. v. State et al.*, 27 Okla. 424, 112 Pac. 980. *St. L. & S. F. Ry. Co. v. Zalondek et al.*, 28 Okla. 746.

CORPORATION COMMISSION—ORDERS—PRIVATE CLAIMS

Same—side tracks for cotton gins. Sec. 33, Art. 9, of the constitution of Oklahoma was intended to provide special facilities for such industry or plant, and not for the general public. *Id.*

(a) A cotton gin comes within the term "other industry" as used in said section. *Id.*

Same—extent of railroad's duty. Whenever the amount of business reasonably to be afforded a railway line by a gin plant is sufficient, after a switch or spur track has been constructed from said railroad to such plant at the expense of its owner, to justify the same, said railway company may be required to furnish switch stand and frog and other necessary material for making connections with such side track or spur under such reasonable terms, conditions and regulations as the Corporation Commission may prescribe. *Id.*

Same—construction of statutes. Sec. 3 of act of May 20, 1908 (Sess. Laws 1907-8, c. 18, Art. 2, p. 226; Comp. Laws 1909, Art. 1, p. 422), was not intended to affect or limit Sec. 33, Art. 9 of the constitution. *Id.*

Railroads—regulation—connections—"other industry." An oil mill and cotton gin are embraced under the term "other industry," as used in Sec. 33, Art. 9, Const., providing special facilities for such industry. *C. R. I. & P. Ry. Co. v. State et al.*, 157 Pac. 1039.

Railroads—regulation—connections. Under Sec. 33, Art. 9, Const., whenever the amount of business reasonably to be afforded a railway line by an oil mill and gin plant is sufficient to justify the same after a switch or spur track has been constructed from said railroad to said plant at the expense of its owner, said railway company may be required to furnish the switch stand and frog and other necessary material for making connection with such side track or spur and shall make such connection under such reasonable terms, conditions and regulations as the Corporation Commission may prescribe. *Id.*

Railroads—regulations—connections. The jurisdiction of the commission under this provision to require a switch connection to be made does not rest upon the existence of contractual relations between the parties nor does it arise by reason of the breach of an alleged contract to construct such switch, but depends upon the existence of a state of facts which bring the case within the terms of said constitutional provision. *Id.*

Constitutional law—due process of law—regulation of railroad. Where a private side track or spur is constructed to a railroad from a private industry under Sec. 33, Art. 9, Const., and said railroad is required to construct a connection with such side track or spur at the expense of the owner of such industry under reasonable terms, conditions and regulations prescribed by the Corporation Commission, the requirement that such switch connection be made by the railroad company does not constitute the taking of private property for private use without compensation and without due process of law. *Id.*

Commerce—means of regulation—regulation of railroads. Act Congress June 25, 1906, c. 3591, & s. 31 Stat. 581 (U. S. Comp. St. 1913, and 8563), amending "An act to regulate commerce" (Act Cong. Feb. 4, 1887, c. 104, and 1), conferring jurisdiction upon the Interstate Commerce Commission to require switch connections to be made with any lateral, branch line of railroad or private side track where such connection is reasonably practicable and will furnish sufficient business of an interstate character to justify the same, does not deprive the Corporation Commission of jurisdiction to require switch connection to be made with a private side track or spur under Sec. 33, Art. 9, where the business of an intrastate character is sufficient to warrant the making of such an order. *Id.*

55. Jurisdiction of courts not impaired—redress of private claims against transportation and transmission companies—penalties imposed by commission for public welfare—rate or order not to be challenged in collateral proceeding—cases suspended. The right of any person to institute and prosecute in the ordinary courts of justice, any action, suit or motion, against any transportation or transmission company, for any claim or cause of action against such company, shall not be extinguished or impaired by reason of any fine or other penalty which the commission may impose, or be authorized to impose, upon such company, because of its breach of any public duty, or because of its failure to comply with any order or requirement of the Commission; but, in no such proceeding by any person against such corporation, nor in any collateral proceeding shall the reasonableness, justness, or validity of any rate, charge, classification of traffic rule, regulation or requirement, theretofore prescribed by the Commission, within the scope of its authority,

CORPORATION COMMISSION—INTERSTATE RATES

and then in force, be questioned: Provided, however, that no case based upon or involving any order of the Commission shall be heard or disposed of, against the objection of either party, so long as such order is suspended in its operation by an order of the Supreme Court as authorized by this constitution or by any law passed in pursuance thereof.

Sec. 24 (242), Art. 9, Const.

Cited, etc. 40 Okla. 417, 426, 138 Pac. 1033.

Street railway, transmission company. 33 Okla. 755, 127 Pac. 1087.

56. Interstate rates—investigation—application to Interstate Commerce Commission for correction or relief. The said Commission shall have power, and it is hereby made its duty, to investigate all through freight or passenger rates on railroads in this state, and when the same are, in the opinion of the Commission, excessive or levied or laid in violation of the Interstate Commerce law, or the rules and regulations of the Interstate Commerce Commission, the proper officials of the railroads are to be notified of the facts and requested to reduce them or make the proper corrections, as the case may be. When the rates are not changed, or the proper corrections are not made according to the request of the Commission, it shall be the duty of the latter to notify the Interstate Commerce Commission and to make proper application to it for relief, and the attorney general or such other persons as may be designated by law shall represent the Commission in all such matters.

Sec. 32 (250), Art. 9, Const.

57. Free transportation and franks prohibited. No railroad or transportation company, or transmission company shall, directly or indirectly, issue or give any free frank or free ticket, free pass or other free transportation for any use, within this state, except to its employes and their families, its officers, agents, surgeons, physicians and attorneys at law; to ministers of religion, traveling secretaries for railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents, employed in such transportations; to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Homes, including those about to enter and those returning home after discharge, and boards of managers of such homes; to members of volunteer fire departments and their equipment while traveling as such; to necessary caretakers of live stock, poultry and fruit; to employees of sleeping cars, of express cars, and to linemen of telegraph and telephone companies; to Railway Mail Service employees, postoffice inspectors, customs inspectors and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the railroad company or transportation company is interested, persons injured in

FREE TRANSPORTATION PROHIBITED

wrecks, and physicians and nurses attending such persons: Provided, that this provision shall not be construed to prohibit the interchange of passes for the officers, agents and employees of common carriers and their families, nor to prohibit any common carriers from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation; nor to prevent them from transporting, free of charge, to their places of employment, persons entering their service, and the interchange of passes to that end; and any railroad, transportation or transmission company or any person, other than the persons excepted in this provision, who grants or uses any such free frank, free ticket, free pass, or free transportation within this state, shall be deemed guilty of a crime, and the legislature shall provide proper penalties for the violation of any provision of this section by the railroad or transportation or transmission company, or by any individual: Provided, that nothing herein shall prevent the legislature from extending these provisions so as to exclude such free transportations or franks from other persons.

Sec. 13 (229), Art. 9, Const.
Reduced transportation for school children, provided for in franchise granted street railway company by city, is not prohibited. Such reduced rates furnished by city, not by railway company. Same as to free transportation for policemen and firemen. *Oklahoma City v. Oklahoma Ry. Co.*, 20 Okla. 1, 93 Pac. 48; 16 L. R. A. (ns) 651-n.

Construed. 35 Okla. 89, 128 Pac. 298.

58. Passes and franks—penalty. Any person or railroad, transportation or transmission company violating the provisions of Section 13, Article IX, of the constitution, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail of the county where the offense is triable of not less than thirty days nor more than twelve months, or by both such fine and imprisonment in the discretion of the court: Provided, that nothing herein contained shall prevent any railroad company or transportation company from carrying free any child or children under the age of seven years.

Sec. 2242, R. L. 1910.

History. L. 1907-8, p. 580; effective May 5, 1908. Revision: Minor changes in language.

59. Long and short haul—exemptions as to junctional or competitive points—special rates, etc. No transportation or transmission company shall charge or receive any greater compensation in the aggregate, for transporting the same class of passengers or property, or for transmitting the same class of messages, over a shorter than a longer distance, along the same line and in the same direction—the shorter being included in the longer distance; but this section shall not be construed as authorizing any such company to charge or receive as great compensation for a shorter as for a longer distance. The Commission may, from time to time, authorize any such company to disregard the foregoing provisions of this section, by charging such rates as the Commission may prescribe as

TWO CENT PASSENGER FARE

just and equitable between such company and the public, to or from any junctional or competitive points or localities, or where the competition of points located without this state may make necessary the prescribing of special rates for the protection of the commerce of this state; but this section shall not apply to mileage tickets, or to any special excursion, or commutation rates, or to special rates for services rendered to this state, or to the United States, or in the interest of some public object, when such tickets or rates shall have been prescribed or authorized by the Commission.

Sec. 30 (248), Art. 9, Const.

Interstate commerce—overcharges. Difference between rate agreed upon and published rate cannot be recovered. *A. T. & S. F. Ry. Co. v. Holmes*, 18 Okla. 92, 90 Pac. 22.

ORDER No. 246. Discrimination long and short haul, not permitted. No transportation or transmission company shall charge or receive any greater compensation, in the aggregate, for transporting the same class of passengers, property, or merchandise; or for transmitting the same class of messages, over a shorter than a longer distance, on the same line in the same direction—the shorter distance being included in the longer; except where rates are named between competitive points to meet rates made via the line or lines of transportation companies whose distance is shorter between such points.

This commission reserves the right to authorize any company to disregard the foregoing and permit them to charge such rates as may be prescribed where competition of points located without this state may make necessary the prescribing of such rates for the protection of its commerce or for special mileage tickets, special excursion or commutation rates or for special rates for services rendered to this state or to the United States or in the interest of some public object.

Dated September 24, 1909.

60. Two-cent passenger fare. No person, company or corporation, receiver or other agency operating a railroad, other than street railroad or electric railroad, in whole or in part, within this state, shall demand or receive for first-class transportation for each passenger, between points within this state or the portion of its road operated within this state, more than two cents per mile, until otherwise provided by law: Provided, however, the Corporation Commission shall have the power to exempt any railroad from the operation of this section upon satisfactory proof that it cannot earn a just compensation for the services rendered by it to the public, if not permitted to charge more than two cents per mile for the transportation of passengers within the state.

Sec. 37 (254a), Art. 9, Const.

61. Rate regulation—power conferred upon Commission—passenger fare. The Corporation Commission shall have the power and authority to prescribe and enforce against any railroad or transportation company, operated in whole or in part within this state, such rates and charges for the transportation of passengers between points within this state as may be found to be reasonable and just after due notice and hearing, as now provided by the constitution for prescribing freight rates and regulations.

Sec. 1, Ch. 130, S. L. 1913.

62. Effect of act—amendment of constitution—passenger fare. This act shall have the effect of amending section 37, article IX of the constitution, prescribing and fixing passenger rates at two cents per mile, by conferring upon the Corporation Commission the

TWO-CENT PASSENGER FARE—REFUNDS

power to promulgate and fix other than two cents per mile for passenger fare upon railroads and transportation companies within the state, after due notice and hearing; provided, that any orders issued by the Corporation Commission hereunder shall not have the effect of interfering with any right vested and accrued under the existing law.

Sec. 2, Ch. 130, S. L. 1913.

63. Right of appeal—passenger fare. From any action of the Commission prescribing rates and charges for the transportation of passengers between points within this state, any party aggrieved may appeal to the Supreme Court in the manner now provided by law for appealing cases from the Corporation Commission to the Supreme Court.

Sec. 3, Ch. 130, S. L. 1913.

64. Power to collect and disburse refunds—two-cent passenger fare. The State Corporation Commission is hereby empowered to collect from all railroad companies which obtained injunctions in the United States courts on various dates in 1910, against the enforcement of the provisions of section 37, article 9 of the constitution, said section being known as the two-cent passenger fare law, such sums of money as decisions of said courts and a thorough audit of the books, records and accounts of such railroad companies may disclose that they are respectively due to refund to intrastate passengers in Oklahoma; and to disburse such funds to the persons entitled thereto, as their interests appear.

Sec. 1, Ch. 248, S. L. 1913.

65. Claimants—proof—two-cent passenger fare. Any such funds coming into the hands of said commission shall be disbursed only upon authentic coupons, conductor's receipts or other forms of tickets, certificates or receipts, which furnished to said commission proper proof that the holder of such is entitled to the refund indicated thereby to be due.

Sec. 2, Ch. 248, S. L. 1913.

66. Inspection of railroad books—passenger fare. Said commission shall, when authorized under court decisions, make such audit of the books, records and accounts of such railroad companies as in its judgment may be necessary to ascertain the correct amount due to such passenger in excess of the legal rate or fare.

Sec. 3, Ch. 248, S. L. 1913.

67. Unclaimed refunds—reversion to state—two-cent passenger fare. All moneys which may be so collected, not claimed and allowed within two years from the date of receipt thereof by said Commission, shall revert to the state, and shall be, by said Commission, paid into the state treasury to the credit of the general fund.

Sec. 1, Ch. 248, S. L. 1913.

Carriers—carriage of passengers—"interstate passenger." A. purchased a ticket over defendant's railroad from Oklahoma City, Okla., to Colbert, Okla., intending to proceed from the latter place to Achille, a point within this state. Upon reaching Atoka, Okla., he decided to proceed to Denison, Tex., and tendered defendant the unpaid portion of his ticket entitling him to passage as an intrastate passenger from Atoka to Colbert and cash fare at the interstate rate from

RAILROADS—REPORTS—OFFICES IN STATE

Colbert to Denison, Tex., which was refused, and defendant demanded of him in addition to his ticket one cent per mile from Atoka to Colbert, which, with the ticket and the cash tendered by plaintiff, would equal to published tariffs for one continuous passage from Atoka to Denison. Plaintiff refused to pay this amount and was evicted from the train at Colbert, and sued for damages for the eviction. **Held**, that plaintiff was an "interstate passenger" from Atoka to Denison, Texas, and was required to pay the rate prescribed by the published tariffs for the journey from Atoka to Denison, and on his refusal to pay an extra one cent per mile from Atoka to Colbert, in addition to the ticket and the cash fare tendered from Colbert to Denison, defendant was entitled to eject him from its train, and, in the absence of circumstances other than the mere fact of removing him from the train, plaintiff is not entitled to recover. *M. K. & T. Ry. Co. v. Ashinger*, 162 Pac. 814.

ORDER No. 617 of Corporation Commission—Sheriff's passenger fare. Ordered that the railroads shall carry the sheriffs and two deputy sheriffs of each county, who may be designated by the sheriff of that county at the rate of one cent per mile within the state of Oklahoma. Said sheriff and deputy sheriffs shall be permitted to ride on all trains in the state provided they secure a ticket, but shall not stop trains that do not customarily stop unless a great emergency exists, and such emergency request shall be made to the proper operating official of the railroad. That each railroad shall issue a book, upon application, similar to that now issued to ministers, to be known as sheriff's credentials, which, when presented to the agent, will authorize the agent to sell to the party who has possession of the book, a ticket at the rate of one cent per mile. That these books shall be used exclusively by the parties who are entitled under this order to use the same and if a sheriff permits other parties than himself to use his credentials, the credentials may be taken up and this order shall be considered revoked as to such sheriff and his deputies. If a deputy sheriff permits anyone to use his credentials, he shall be immediately dismissed from the service, or this order will be revoked as affecting the sheriff and the deputies of that county. This order shall take effect and be in force on and after the 15th day of September, 1912.

68. Railroads—public highways—public service corporations—annual meeting of stockholders—office in the state for transfer of stock, etc.—reports to Corporation Commission. Railroads heretofore constructed, or which may hereafter be constructed in this state, are hereby declared public highways. Every railroad or other public service corporation organized or doing business in this state, under the laws or authority thereof, shall have and maintain a public office or place in this state for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for inspection by the stockholders of such corporation, books in which shall be recorded the amount of capital stock subscribed, the names of the owners of the stock, the amounts owned by them, respectively; the amount of stock paid and by whom; the transfer of said stock, with the date of transfer; the amount of its assets and liabilities, and the names and places of residence of its officers, and such other matters required by law or by order of the Corporation Commission. The directors of every railroad company or other public service corporation, shall hold at least one meeting annually in this state, public notice of which shall be given thirty days previously, and the president or superintendent of every railroad company, or other public service corporation organized or doing business in this state under the laws of this state or the authority thereof, shall report annually under oath, and make such other reports as may be required by law or order of the Corporation Commission, to said Commission their acts and doings, which report shall include such matters relating to railroads and other public service corporations as may be prescribed by law. The legislature shall pass all necessary laws enforcing, by suitable penalties, all the provisions in this section.

RAILROADS—PROPERTY SUBJECT TO EXECUTION

Railroads are public highways. This is merely declaratory of a pre-existing and well-recognized rule; and this whether the railroads are built, owned and conducted by the state, or private corporations, and whether exacting tolls or free. *A. T. & S. F. Ry. Co. v. State et al.*, 23 Okla. 510, 516, 101 Pac. 262.

ORDER No. 265. Requiring public service corporations to maintain general offices in Oklahoma. (Supplemented by Orders No. 799, 800, 808.) All public service companies, both domestic and foreign, which are organized or doing business in the state of Oklahoma, under the laws or authority thereof, shall have and maintain a general office in the state of Oklahoma, in which it shall keep its books, accounts, records, vouchers, memoranda and contracts, or verified copies thereof, relating to its business in the state of Oklahoma, embracing all books, papers and contracts, or verified copies thereof, showing the amount of expenditures for road and equipment, or plant, and other property, and additions, betterments, and extensions, pertaining, or incident to all property in Oklahoma, in classified detail; and showing the amount of its revenues and operating expenses of various classes; taxes, interest, and other fixed charges, in classified detail on account of all business done in Oklahoma.

Every public service company conducting an interstate business shall segregate and classify, as far as is possible to do so, all revenues and expenses, accruing account of interstate business, from entire business. All primary accounts shall be kept in accordance with the lawfully prescribed accounting rules in effect on July 1st, 1909.

The resident agent in the state of Oklahoma designated as the person upon whom service of summons or other notice may be had for foreign corporations, as provided by the laws of said state, shall be vested with equal authority with that of a general manager of such public service company, in so far as effects service upon such agent of any process issuing by or from the Corporation Commission, and in relation to any matters to be transacted by such agent with said commission. Such agent shall be vested with full and complete authority to act in the same capacity as would such general manager, and all foreign public service companies which are unincorporated shall designate and maintain a resident agent within the state of Oklahoma, who shall be vested with all the powers as herein provided for resident agents of foreign corporations.

Every public service company doing business as such in this state shall establish the general office herein provided for at some point adjacent to its business in the state of Oklahoma, and shall, immediately after the date this order becomes effective, give notice, in writing, to the Corporation Commission of the place at which such general office is located, and shall, at the same time, give notice, in writing, to the Corporation Commission of the name, and official designation of the person or persons, officer or officers, charged with the management of such general office, and shall, from time to time, give notice, in writing, of any change of location of each general office, or of the person or persons, officer or officers, charged with the management thereof.

As used in this order, the words "company" and "public service company" shall include all "transportation companies," "transmission companies," "public service corporations," and "persons," as defined in each instance in Sections 186, and 31, Article IX, Constitution of Oklahoma, or any company, corporation, trustee, receiver, or other person owning, leasing, or operating the business of any or either of same. This order shall be in full force and effect on and after June 1, 1910. Dated November 17, 1909.

69. Rolling stock personal property—subject to execution and sale. The rolling stock and all other movable property belonging to any railroad, transportation, transmission or other public corporation in this state, shall be considered personal property, and its real and personal property, or any part thereof, shall be liable to execution and sale in the same manner as the property of individuals; and the legislature shall pass no laws exempting any such property from execution and sale.

Sec. 7 (223), Art. 9, Const.

70. Consolidation with competing lines by sale or lease prohibited. No public service corporation, or the lessees, purchasers, or managers thereof, shall consolidate the stock, property or franchises, of such corporation with, or lease or purchase the works or franchises of, or in any way control, any other public service corporation owning or having under its control a parallel or competing line; except by enactment of the legislature upon the recommendation of the Corporation Commission: Provided, how-

RAILROADS—CONSOLIDATION

ever, that the legislature shall never enact any law permitting any public service corporation, the lessees, purchasers or managers thereof when such public service corporation is organized under the laws of any other state, or of the United States, to consolidate the stock, property, or franchises, of such corporation with, or lease, or purchase, the works of, franchises of, or in any way control, any other public service corporation, organized under the laws of any other state, or of the United States, owning or having under its control in this state a parallel or competing line; nor shall any officer of such corporation act as an officer of any other corporation owning or controlling a parallel or competing line.

Sec. 8 (224), Art. 9, Const.

NOTE: See chapters 43 and 127, S. L. 1913, permitting Chickasha Gas & Electric Co. to acquire property of Chickasha Light, Heat & Power Co.

71. Consolidations with foreign corporations prohibited.

Neither shall any railroad company, transportation company or transmission company organized under the laws in this state, consolidate by private or judicial sale, or otherwise, with any railroad company, transportation company, or transmission company organized under the laws of any other state, or of the United States.

Sec. 9 (225), Art. 9, Const.

(Amendment—in lieu of Section 9 of Article 9.)

Lease or sale—consolidation. Upon the consent of the Corporation Commission in writing first had and obtained, any foreign or domestic railroad transportation or transmission company or corporation may lease, sell or otherwise dispose of its property and franchises to, or may lease, buy, or otherwise acquire and operate the property and franchise of any like company or corporation; provided, that the Legislature may impose additional limitations or restrictions upon the rights of any railroad company or transmission company to consolidate.

Submitted under Senate joint resolution No. 3, S. L. 1913, p. 269; adopted by Senate, March 1, 1913; by House, March 12, 1913; approved March 22, 1913; submitted as State Question No. 46, Initiative Petition No. 18; adopted at election held August 5, 1913; S. L. 1916, p. 119.

Franchises and property of, power of to transfer. 75 Am. Dec. 548. Leasing property, liability of afterward. 48 Am. Rep. 580. Consolidation of and its effect on pre-existing debts and liens. 59 Am. St. 554.

72. Provisions of constitution to be accepted before securing benefits of future legislation. No railroad, transportation, transmission, or other public service corporation in existence at the time of the adoption of this constitution, shall have the benefit of any future legislation, except on condition of complete acceptance of all the provisions of this constitution, applicable to railroads, transportation companies, transmission companies and other public service corporations: Provided, that nothing herein shall be construed as validating any charter which may be invalid, or having any of the conditions contained in any charter.

Sec. 11 (227), Art. 9, Const.

73. Articles or commodities produced, mined or manufactured by a railroad not to be transported by it. No railroad com-

CARRIERS—RAILROADS

pany shall transport, within this state, any article or commodity manufactured, mined or produced by it, or under its authority, or which it may own, in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary and intended for the use in the conduct of its business as a common carrier.

Sec. 12 (228), Art. 9, Const.

CHAPTER 11.

Carriers—Railroads.

- Article I. Carriers in General.
II. Carriers of Persons.
III. Carriage of Property.
IV. Separate Coach Law.
V. Manner of Incorporation—Duties, Etc.
VI. Private Property for Public Use—Eminent Domain.
VII. Duties Governing Operation, Etc.
VIII. Miscellaneous.
IX. Proclamation of the President of the United States, taking possession and assuming control of the Railroads of the United States.

ARTICLE I.

CARRIERS IN GENERAL.

Sec.

74. Railroads and express companies—common carriers—to transport each others cars and passengers.
75. Contract for carriage.
76. Gratuitous carriers.
77. Same—must complete duty.
78. Common carrier defined.
79. Duty of common carrier.
80. Governments may be preferred.
81. Must start—when—where.
82. Compensation.
83. Agents not to collect excessive rates.
84. Same.
85. Schedule of rates to be kept open.
86. Penalty for overcharges.
87. Penalty for concealing schedules.
88. Obligations how limited.
89. Certain agreements void.
90. Construction of contract.

74. Railroads and express companies—common carriers—to transport each other's cars and passengers. Every railroad, car, or express company, shall each respectively receive and transport without delay or discrimination each other's cars, laded or empty, tonnage, and passengers, under such rules and regulations as may be prescribed by law or any commission created by this Constitution or by act of the Legislature, for that purpose.

Sec. 3 (319), Art. 9, Const.

12 Okla. 195, 110 Pac. 1146.

75. Contract for carriage. A contract of carriage is a contract for the conveyance of property, persons or messages from one place to another.

Sec. 753, R. L. 1919.

History. Dak. 3831; S. 4899, Sec. 161.

Mandamus against, 37 Am. St. 329.

CARRIERS IN GENERAL

76. Gratuitous carriers. Carriers without reward are subject to the same rules as employees without reward, except so far as otherwise provided by this title.

Sec. 784, R. L. 1910.

History. Dak. 3834; S. 1890, Sec. 168.

77. Same—must complete duty. A carrier without reward, who has begun to perform his undertaking, must complete it in like manner as if he had received a reward, unless he restores the person or thing carried to as favorable a position as before he commenced the carriage.

Sec. 785, R. L. 1910.

History. Dak. 3836; S. 1890; Sec. 469.

78. Common carrier defined. Everyone who offers to the public to carry persons, property or messages is a common carrier of whatever he thus offers to carry.

Sec. 786, R. L. 1910.

History. Dak. 3881; S. 1890, Sec. 514.

79. Duty of common carrier. A common carrier must, if able to do so, accept and carry whatever is offered to him, at a reasonable time and place, of a kind that he undertakes or is accustomed to carry.

Sec. 787, R. L. 1910.

History. Dak. 3883; S. 1890, Sec. 515.

See Sec. 1410, etc., notes.

Telegraph companies held common carriers. Sec. 490, Comp. L. 1909, applied. Blackwell Milling, etc., Co. v. Western Union Tel. Co., 17 Okla. 376, 89 Pac. 235; 10 Ann. Cas. 855.

Sales—delivery to carriers of personal property to be delivered to vendee is a delivery to the vendee, and vests title in him, subject to vendor's right of stoppage in transitu. Colcord v. Bryfus, 1 Okla. 228, 32 Pac. 329.

Various phases of question who are common carriers: 30 R. L. A. 161-n; 67 L. R. A. 637-n; 68 L. R. A. 153-n; 2 L. R. A. (ns) 745-n; 5 L. R. A. (ns) 458-n; 21 L. R. A. (ns) 188-n

Railroad companies as private carriers in drawing special trains or special cars. 48 L. R. A. (ns) 990. Character as common carriers of persons or corporations other than express companies that neither own nor operate transportation routes, but undertake to transport goods. 42 Id. 902.

80. Governments may be preferred. A common carrier must always give a preference in time, and may give a preference in price, to the United States and to this State.

Sec. 788, R. L. 1910.

History. Dak. 3883; S. 1890, Sec. 516.

81. Must start when and where. A common carrier must start at such time and place as he announces to the public, unless detained by accident or the elements, or in order to connect with carriers on other lines of travel.

Sec. 789, R. L. 1910.

History. Dak. 3884; S. 1890, Sec. 517.

82. Compensation. A common carrier is entitled to a reasonable compensation and no more, which he may require to be paid in advance. If payment thereof is refused, he may refuse to carry.

Sec. 790, R. L. 1910.

History. Dak. 3885; S. 1890, Sec. 518.

Construed, under the facts in this case. Ft. S. & W. R. Co. v. Chandler Cotton Oil Co., 25 Okla. 82, 106 Pac. 10.

CARRIERS IN GENERAL

83. Agents not to collect excessive rates. All agents of railroad and express companies doing business in this State are hereby prohibited from knowingly charging, collecting or receiving pay for any goods, wares, packages, merchandise, or any article whatever that may be sent or received by or through their respective offices in excess of the regular rates charged for the same.

Sec. 791, R. L. 1910.

History. L. 1907-8, p. 198; effective August 24, 1908.

Legislative power to regulate rates. 33 L. R. A. 179-n; 6 L. R. A. (ns) 834-n.

Allowance for depreciation in plant in fixing rates, 38 L. R. A. (ns) 1209.

Reduced rates to pupils. 43 Id. 172.

When rates fixed by penal statute are sufficiently definite and certain. 33 L. R. A. 209-n.

Elements entering into determination of reasonableness of railroad rates prescribed by statute for local traffic. 15 L. R. A. (ns) 108-n; 25 L. R. A. (ns) 1001-n.

ORDER No. 320—public service corporations to charge published rates and give exact change. All transportation, transmission, electric light, heat and power companies doing business within the state of Oklahoma, shall in their financial dealings with the public, charge and collect and receive only the amounts of their published rates or such rates as are on file with the Corporation Commission, and in the collection of such rates they shall give and make exact change with their patrons and customers. Effective May 25, 1910.

84. Same. All agents or operators for any telegraph or telephone company doing business in this State are hereby prohibited from knowingly charging, collecting or receiving pay for any message sent or received by them in excess of the regular rate charged for the same.

Sec. 792, R. L. 1910.

History. L. 1907-8, p. 199; effective August 24, 1908.

85. Schedules of rates to be kept open. In order to ascertain what the regular charges of such companies, are, all railroad, express, telegraph and telephone companies doing business in this State are hereby required to keep in all their offices in this State, a schedule of the regular rates charged by them, which shall be open to the inspection of any person interested therein.

Sec. 793, R. L. 1910.

History. L. 1907-8, p. 199; effective August 24, 1908.

86. Penalty for overcharges. Any person who shall violate the provisions of Sections 791 and 792 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty-five dollars, nor more than two hundred dollars.

Sec. 791, R. L. 1910.

History. L. 1907-8, p. 199; effective August 24, 1908.

87. Penalty for concealing schedules. Any agent of any railroad, express, telegraph or telephone company who shall fail or refuse to show the schedule of rates of said company to any person or persons interested therein, and allow him or them to examine the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars.

Sec. 795, R. L. 1910.

History. L. 1907-8, p. 199; effective August 24, 1908.

CARRIERS IN GENERAL

88. Obligations—how limitd. The obligations of a common carrier cannot be limited by general notice on his part, but may be limited by special contract.

Sec. 796, R. L. 1910.

History. Dak. 3886; S. 1890, Sec. 519.

Right of freight carrier to limit common-law liability in absence of negligence. 18 L. R. A. 527-n.

Power to limit amount of liability in case of negligence. 11 L. R. A. 433-n. Limiting valuation of property as affecting amount of recovery for loss by negligence. 1 L. R. A. (ns) 885-n.

Validity of stipulation limiting liability to agreed valuation as affected by the Hepburn act. 28 L. R. A. (ns) 293-n.

Right of passenger carrier to stipulate against liability in consideration of reduced fare. 4 L. R. A. (ns) 1081-n.

Risks of negligence assumed by contract with carrier as including gross negligence. 1 L. R. A. (ns) 674-n.

30 Okla. 588, 120 Pac. 999, 36 L. R. A. (ns) 412. Carmack amendment.

89. Certain agreements void. A common carrier cannot be exonerated, by any agreement made in anticipation thereof, from liability for the gross negligence, fraud or wilful wrong of himself or his servants.

Sec. 797, R. L. 1910.

History. Dak. 3887; S. 1890, Sec. 520.

Carrier may exempt itself from liability in case of carriage of live stock. Section construed. *St. L. & S. F. Ry. Co. v. Copeland*, 23 Okla. 837, 102 Pac. 104; 46 Am. St. 666; 93 Am Dec. 162.

Shipment of live stock—notice of injury. Provision in contract does not apply where owner did not know of injury at time of unloading. *Id.*

Maximum liability—contract. Section construed. Under the facts, contract fixing maximum value of property in case of loss is valid, and determines amount of plaintiff's recovery, unless section void as to liability resulting from gross negligence. *C. R. I. & P. Ry. Co. v. Wehrman*, 25 Okla. 147, 105 Pac. 328.

Common-law rule—liability. Contract exempting from liability void. However, under American rule, liability may be incurred only to extent of maximum value fixed in contract. *Id.* Approving 151 Cal. 763, 91 Pac. 603; 11 L. R. A. (ns) 811; 121 N. W. 78 (N. Dak.).

This section same as California, Civil Code Sec. 2175. *Id.*

A carrier of messages for hire, where they are made common carriers by statute, cannot stipulate for exemption from liability or loss brought about even by its ordinary negligence. *Blackwell Milling, etc., Co. v. Western Union Tel. Co.*, 17 Okla. 376, 89 Pac. 235; 10 Am. Cas. 855.

Railway—special contract—maximum value. A special contract in consideration of a reduced freight rate fixing the liability of the company at a certain amount is not in violation of this section if same be reasonable and just. *M. K. & T. Ry. Co. v. Hancock*, 26 Okla. 254, 109 Pac. 220. Following 25 Okla. 147, 105 Pac. 328.

Same—mares with foal. Same a hidden defect. *Id.*

Special shipping contract—limitation of liability, requiring presentation of claim within ninety days, held valid where contract executed prior to statehood. *M. K. & T. Ry. Co. v. Hancock*, 26 Okla. 254, 109 Pac. 220. Following 17 Okla. 261, 87 Pac. 470; 23 Okla. 837, 102 Pac. 104; 24 Okla. 677, 717, 104 Pac. 31, 34; 25 Okla. 147, 227, 105 Pac. 322, 328.

Contract providing for notice in case of loss sustained. *M. K. & T. Ry. Co. v. Hancock & Goodbar*, 26 Okla. 265, 109 Pac. 223.

31 Okla. 469, 122 Pac. 228; 28 Okla. 613, 115 Pac. 774. Limitation, 5 Am. St. 719; 23 Am. St. 782; 46 Am. St. 777; 23 Am. St. 595.

Carriers—commerce—shipment contract—limitation of liability. On account of the passage of the act of Congress of June 29, 1906, c. 3591, 31 St. at L. 584 (U. S. Comp. St. Supp. 1911, p. 1284), the state, under its police power, has ceased to have the authority to pass acts relative to contracts made by carriers pertaining to interstate shipments, and Sec. 9 of Art. 23 (Sec. 358, Williams' Ann. Ed.) of the constitution of this state applies only to intrastate shipments (following *Adams Express Co. v. Croninger*, 226 U. S. 491, 33 Sup. Ct. 148, 57 L. Ed. 314, 41 L. R. A. (ns) 257).

(a) As to interstate shipments, the common-law liability of the carrier for the safe carriage of property may be limited by a special contract with the shipper, where such contract, being supported by a consideration, is reasonable and fairly entered into by the shipper, and does not attempt to cover losses caused by the negligence or misconduct of the carrier (following *Adams Express Co. v. Croninger*, supra).

(b) As to intrastate shipments, only such contracts as are made between the carrier and the shipper pursuant to rules and regulations adopted by the Corporation Commission of this state are valid.

CARRIAGE OF PERSONS

(c) All contracts or bills of lading made or issued by carriers as to intra-state shipments, which are inconsistent with the rates, charges, classifications, rules, and regulations adopted by the Corporation Commission of this state, are void. *S. L. & S. F. Ry. Co. v. Cox, Peery & Murray*, 40 Okla. 258, 138 Pac. 144.

90. Construction of contract. A passenger, consignor or consignee by accepting a ticket, bill of lading or written contract for carriage, with a knowledge of its terms, assents to the rate of hire, the time, place and manner of delivery therein stated. But his assent to any other modification of the carrier's rights or obligations contained in such instrument can only be manifested by his signature to the same.

Sec. 798, R. L. 1910.

History. Dak. 3888; S. 1890, Sec. 521.

Limitation of liability. Bills of lading and contracts are not "special contracts" within the meaning of the statute providing that the obligations of a common carrier may be limited by special contract unless they are signed by the consignor and consignee. *Hartwell v. Northern P. E. Co.*, 5 Dak. 463, 41 N. W. 732; 3 L. R. A. 342.

Carriers, passenger tickets, effect of conditions on unsigned, 84 Am. St. 397.

Liability of, limiting by bills of lading, 88 Am. St. 74.

Notices contained in tickets and bills of lading, 15 Am. Rep. 457.

29 Am. Rep. 166.

Liability, stipulations exempting from, when void, 31 Am. Rep. 567.

Conditions limiting the time within which claims against may be presented, 31 Am. Rep. 509.

Power of to limit their liability and how may be exercised, 32 Am. Dec. 495.

ARTICLE II.

CARRIAGE OF PERSONS.

Sec.

- 91. Carriers of persons without reward.
- 92. Carriers for reward must use utmost care.
- 93. Must use safe vehicles.
- 94. Must not overload vehicle.
- 95. Treatment of passengers.
- 96. Speed and delays.
- 97. Must carry luggage.
- 98. Luggage defined.
- 99. Liability for luggage.
- 100. Carriage and delivery of luggage.
- 101. Must provide vehicles.
- 102. Must provide seats for passengers.
- 103. Carrier may make rules.
- 104. Fare—when payable.
- 105. Ejection of passengers.
- 106. Lien on luggage for fare.
- 107. Liability of carrier of freight.
- 108. Same.

91. Carriers of persons without reward. A carrier of persons without reward must use ordinary care and diligence for their safe carriage.

Sec. 799, R. L. 1910.

History. Dak. 3837; S. 1890, Sec. 470.

Maintaining depot—impliedly invites persons to premises—duty of company to have premises safe. *Mayne v. Chicago, etc., Railway Co.*, 12 Okla. 10, 69 Pac. 923.

92. Carriers for reward must use utmost care. A carrier of persons for reward must use the utmost care and diligence for their safe carriage, must provide everything necessary for that purpose, and must exercise to that end a reasonable degree of skill.

Sec. 800, R. L. 1910.

History. Dak. 3838; S. 1890, Sec. 471.

See also Sec. 818, notes, R. L. 1910.

See also notes, Sec. 2815, etc., R. L. 1910.

CARRIAGE OF PERSONS

Construed. Lane v. Choctaw, etc., R. R. Co., 19 Okla. 324, 91 Pac. 883.

Duties of carrier of passengers defined. Held that company was guilty of culpable negligence in this case for failure to have lights at its station; for stopping the train too short a time, etc. A. T. & S. F. Ry. Co. v. Calhoun, by next friend, 18 Okla. 75, 89 Pac. 207; 14 Ann. Cas. 681.
Same case, 213 U. S. 1; 53 L. Ed. 671.

Instructions. An instruction in language of the statute on degree of care to be exercised by carrier of persons, is not erroneous. C. R. I. & P. Ry. Co. v. Stibbs, 17 Okla. 97, 87 Pac. 293; 207 U. S. 602; 52 L. Ed. 359.

Freight train—passenger injured. Railroad required to exercise same degree of care as if a passenger train. St. L. & S. F. Ry. Co. v. Gosnell, 23 Okla. 588, 101 Pac. 1126; 22 L. R. A. 892.

37 Okla. 684, 133 Pac. 213; 39 Okla. 522, 136 Pac. 159, 148 Pac. 1001.

ORDER No. 565—requiring heating of passenger cars, steam and electric rail-ways. Therefore it is ordered by the Corporation Commission of the state of Oklahoma that all railroads shall keep their passenger and Pullman cars properly heated during cold weather while such cars are being in use and occupied by passengers. Where a car is picked up on the road, the same shall be warmed as soon as possible after it is attached to the train. All street cars shall be heated with the best improved heating facilities for heating street cars during cold weather. Effective on and after February 14, 1912.

93. Must use safe vehicles. A carrier of persons for reward is bound to provide vehicles safe and fit for the purposes to which they are put, and is not excused for default in this respect by any degree of care.

Sec. 801, R. L. 1910.

History. Dak. 3839; S. 1890, Sec. 472.

Construed. Lane v. Choctaw, etc., R. R. Co., 19 Okla. 324, 91 Pac. 883.

Duty of railroad carrier to furnish proper cars for passengers. 31 L. R. A. 313-n.

Liability for injury to passenger by latent defect in car. 15 L. R. A. (ns) 790-n.

Liability for accident through leaving vestibule doors open. 2 L. R. A. (ns) 645-n.

Injury to passenger from baggage or parcels in aisle of car. 13 L. R. A. (ns) 481-n.

Duty to heat railroad cars. 42 L. R. A. (ns) 110-n; 11 L. R. A. (ns) 1142-n.

94. Must not overload vehicle. A carrier of persons for reward must not overcrowd or overload his vehicle.

Sec. 802, R. L. 1910.

History. Dak. 3840; S. 1890, Sec. 473.

Construed. Lane v. Choctaw, etc., R. R. Co., 19 Okla. 324, 91 Pac. 883.

Duty of carrier permitting cars to become overcrowded. 24 L. R. A. 710-n; 4 L. R. A. (ns) 399-n.

Sleeping car. L. R. A. 1915-B, 1202; 45 L. R. A. (ns) 269. Duty, L. R. A. 1915 B, 915.

95. Treatment of passengers. A carrier of persons for reward must give to passengers all such accommodations as are usual and reasonable, must treat them with civility, and give them a reasonable degree of attention.

Sec. 803, R. L. 1910.

History. Dak. 3841; S. 1890, Sec. 471.

Construed. Lane v. Choctaw, etc., R. R. Co., 19 Okla. 324, 91 Pac. 883.

Liability for assaults by employes upon passengers. 14 L. R. A. 738-n; 17 L. R. A. (ns) 764-n.

Assault by fellow passengers. 16 L. R. A. 627-n.

Assault by strangers, strikers, etc. 2 L. R. A. (ns) 105-n.

False arrest of passenger. 14 L. R. A. 791-n; 7 L. R. A. (ns) 162-n.

Injury to passenger by sportive act of servant. 3 L. R. A. (ns) 605-n.

Liability for forcing sick or intoxicated passenger out of car and onto platform. 16 L. R. A. (ns) 197-n.

Duty to look after drunken passenger after he has left train. 8 L. R. A. (ns) 298-n.

Right to eject persons having contagious disease. 4 L. R. A. (ns) 103-n.

CARRIAGE OF PERSONS

96. Speed and delays. A carrier of persons for reward must travel at a reasonable rate of speed, and without any unreasonable delay or deviation from his proper route.

Sec. 804, R. L. 1910.

History. Dak. 3842; S. 1890, Sec. 475.

97. Must carry luggage. A common carrier of persons, unless his vehicle is fitted for the reception of passengers exclusively, must receive and carry a reasonable amount of luggage for each passenger, without any charge except for an excess of weight over one hundred and fifty pounds to a passenger.

Sec. 805 R. L. 1910.

History. Dak. 3889; S. 1890, Sec. 522. Revision: Amount of luggage to be carried for each passenger increased from one hundred to one hundred and fifty pounds, in accordance with universal rule.

Baggage, which common carrier of persons must receive and carry without charge, means only such articles as are intended for personal use of traveler, and not merchandise, C. O. & G. R. R. Co. v. Zwirtz, 13 Okla. 411, 73 Pac. 941. 29 Okla. 386, 118 Pac. 140; right, 30 L. R. A. (ns) 889.

ORDER No. 699—checking baggage rules:

Rule No. 1. Where baggage is delivered to a railroad company at its regular baggage room or passenger depot platform within a reasonable time prior to the departure of the train for which it is intended, and a request is made upon the carrier's representative at said depot within a reasonable time before the departure of said train, and said request is accompanied by proper railroad transportation between the points where said baggage is desired to move, said baggage must be immediately checked and a receipt of said checking, in the form of a duplicate check or otherwise, shall be given to said passenger.

Rule No. 2. It shall be the duty of the carrier to see that all baggage is moved on the first available train after same is checked.

Dated this 17th day of April, 1913.

98. Luggage defined. Luggage may consist of any articles intended for the use of a passenger while traveling, or for his personal equipment.

Sec. 806, R. L. 1910.

History. Dak. 3890; S. 1890, Sec. 523.

Bicycle as baggage. 47 L. R. A. 306-n.

Articles intended for gifts as baggage. 21 L. R. A. (ns) 850-n.

99. Liability for luggage. The liability of a carrier for luggage received by him with a passenger is the same as that of a common carrier of property.

Sec. 807, R. L. 1910.

History. Dak. 3891; S. 1890, Sec. 524.

Liability for baggage after reaching destination. 36 L. R. A. 781-n; 3 L. R. A. (ns) 483-n.

Liability for baggage not accompanied by passenger. 55 L. R. A. 650-n.

Cited. 29 Okla. 386, 118 Pac. 140; 150 Pac. 669; L. R. A. 1915B, 608.

100. Carriage and delivery of luggage. A common carrier must deliver every passenger's luggage, whether within the prescribed weight or not, immediately upon the arrival of the passenger at his destination; and unless the vehicle be overcrowded or overloaded thereby, must carry it on the same vehicle by which he carries the passenger to whom it belongs; except that where luggage is transported by rail, it must be checked and carried in a regular baggage car; and whenever passengers neglect or refuse to have their luggage so checked and transported, it is carried at their risk.

Sec. 809, R. L. 1910.

History. Dak. 3892, S. 1890, Sec. 525.

CARRIAGE OF PERSONS

101. Must provide vehicles. A common carrier of persons must provide a sufficient number of vehicles to accommodate all the passengers who can be reasonably expected to require carriage at any one time.

Sec. 809, R. L. 1910.

History. Dak. 3893; S. 1890, Sec. 526.

Construed. Lane v. Choctaw, etc., R. R. Co., 19 Okla. 324, 91 Pac. 883.

102. Must provide seats for passengers. A common carrier of persons must provide every passenger with a seat. He must not overload his vehicle by receiving and carrying more passengers than its rated capacity allows.

Sec. 810, R. L. 1910.

History. Dak. 3894; S. 1890, Sec. 527.

Construed. Lane v. Choctaw, etc., R. R. Co., 19 Okla. 324, 91 Pac. 883.

Personal injury—negligence. One is not justified in riding on steps of coach even though he has ticket for that particular train and is unable to secure admission. If injured in so doing, is not entitled to damages. Sanders v. C. R. I. & P. Ry. Co., 10 Okla. 325, 61 Pac. 1075

Right of passenger to seat. 22. L. R. A. 259-n.

50 L. R. A. (ns) 450.

103. Carrier may make rules. A common carrier of persons may make rules for the conduct of his business, and may require passengers to conform to them, if they are lawful, public, uniform in their application, and reasonable.

Sec. 811, R. L. 1910.

History. Dak. 3895; S. 1890, Sec. 528.

Construed. Lane v. Choctaw, etc., Ry. Co., 19 Okla. 324, 91 Pac. 883.

Passenger train—taking on and discharging passengers—duty to stop train reasonable length of time. C. O. & G. R. Co. v. Burgess et al., 21 Okla. 653, 97 Pac. 270.

Same—failure to perform duty, in absence of contributory negligence on part of passenger, makes carrier liable for injuries. Id.

Regulation as to stopping trains. In absence of statute, a railroad has a right to adopt a regulation providing that one of its regular trains shall not stop at certain designated stations. Noble v. A. T. & S. F. Ry. Co., 4 Okla. 534, 46 Pac. 483.

Railroads may prescribe rules and regulations. Decker v. A. T. & S. F. Ry. Co., 3 Okla. 558, 41 Pac. 610.

Limitation on ticket—matter of common knowledge that ticket contains a limitation as to time when it will not be honored for passage. Section construed. St. L. & S. F. R. Co. v. Johnson, 25 Okla. 833, 838, 108 Pac. 378. Following 71 Kan. 327, 80 Pac. 592, and numerous cases cited.

Same—rules and regulations. Carrier may make. Id. 96 Am. St. 828. Right, 22 Am. St. 699; 107 Am. St. 294.

Carriers—regulations—validity—rules of Corporation Commission. Rules and regulations of a common carrier of persons, made for the conduct of its business, as authorized by Sec. 811, Rev. Laws 1910, when inconsistent with the rules and regulations lawfully prescribed by the Corporation Commission, under Sec. 18, Art. 9, Const., are unlawful and void. St. L. & S. F. R. Co. v. Travelers' Corp. of Oklahoma et al., 47 Okla. 374, 148 Pac. 166.

104. Fare—when payable. A common carrier may demand the fare of passengers either at starting or at any subsequent time.

Sec. 812, R. L. 1910.

History. Dak. 3896; S. 1890, Sec. 529.

Applied. St. L. & S. F. R. Co. v. Johnson, 25 Okla. 833, 838, 108 Pac. 378.

ORDER No. 352—requiring railroads to print amount of fare on tickets. All railroad and railway companies, and the Pullman company shall, on and after September 1, 1910, print, write, stamp or cut in plain, legible characters on every ticket sold to cover passage or transportation between points in the state of Oklahoma, the exact price of such service as provided for by their duly published tariffs on file in the office of the commission; provided, that this order shall not be construed as in effect in the case of tickets sold during a period of ten days or less, between specified points within this state, where a rate of fare

CARRIAGE OF PERSONS

lower than the regular fare between such points is made effective, and such excursion rates are advertised by posting in a conspicuous place near the ticket window notice of such rates, points between which and time during which they be effective, such notice to be kept posted while such rates are in effect.

ORDER No. 804—purchasing tickets before boarding cars—requiring carriers to open car doors. (Affirmed 148 Pac. 166.) Carriers shall desist from requiring passengers to show their tickets before entering the cars and shall collect from all passengers who board cars without tickets at stations where tickets are on sale an additional one (1) cent per mile fare. If the passenger so desires, he can pay the additional one cent on the train to the next station where tickets are sold where such train is scheduled to stop and shall there be given a reasonable opportunity to purchase a ticket, and if he fails to do so he shall be charged the additional cent per mile to destination. Where no reasonable opportunity is offered; that is, the agent not present before the train starts, the passenger shall be carried to destination at the regular fare.

Placards shall be posted in all stations in a conspicuous place stating in substance that all passengers boarding trains without tickets will be charged three or four cents a mile, as the case may be (that is, a road that is now charging three cents per mile shall charge passengers four cents per mile, and a road that is now charging two cents a mile shall charge passengers three cents a mile).

The rear door of the smoking car and one door of each first class car shall be opened for the egress and ingress of passengers, and the entrance of the car for colored passengers shall be opened; that is, the vestibule door of each coach shall be opened. Carriers shall not be required to keep a box or extra step for the smoking car door. Dated March 24, 1914.

ORDER No. 942—supplemental to Order No. 804. It having been brought to the attention of the commission that some of the carriers are collecting a full one cent per mile penalty from point of boarding the train to destination for children under twelve years of age, when the carriers' tariffs provide that children under twelve years of age and over five years of age shall be carried for one-half adult fare, the commission therefore orders that the part of Order No. 804 which reads, "It is therefore ordered that the defendants herein shall desist from requiring passengers to show tickets before entering the cars and shall collect from all passengers who board cars (without tickets) at stations where tickets are on sale an additional one cent per mile fare. If the passenger so desires he can pay the additional one cent on the train to the next station where tickets are sold, where such train is scheduled to stop, and shall there be given a reasonable opportunity to purchase a ticket, and if he fails to do so, he shall be charged the additional one cent per mile to destination. Where no reasonable opportunity is offered, that is, the agent not present before the train starts, the passenger shall be carried to destination at the regular rate," shall be construed to mean that but one-half cent per mile penalty shall be collected for children under twelve years of age, who board trains without tickets, at stations where tickets are on sale.

The duty of the carriers to notify passengers of their rights to purchase tickets at the next station where tickets are sold and where the train is scheduled to stop and to give them a reasonable opportunity to purchase tickets there seems clear, and it is hoped that a further order to secure compliance with order No. 804 in this respect will not be necessary.

Dated this the 23rd day of August, 1915.

Order of Corporation Commission—validity—tickets. The order of the Corporation Commission directing that railroad companies shall desist from requiring passengers to show their tickets before entering cars, and which penalizes all passengers that do not procure tickets, where sufficient opportunity is afforded, is not in conflict with Sec. 812, Rev. Laws 1910, authorizing a common carrier to demand passenger fare either at starting or at any subsequent time. *St. L. & S. F. R. Co. v. Travelers' Corp. of Okla. et al.*, 47 Okla. 374, 148 Pac. 168.

105. Ejection of passengers. A passenger who refuses to pay his fare, or to conform to any lawful regulation of the carrier, may be ejected from the vehicle by the carrier. But this must be done with as little violence as possible, and at any usual stopping place, or near some dwelling house. After having ejected a passenger, a carrier has no right to require the payment of any part of his fare.

Sec. 813, R. L. 1910.

History. *Dick*, 3897; *S.* 1899, Sec. 530.

Ejection—right of recovery. Passenger who presents a ticket after it has expired by limitation printed on it may be ejected under this section. *St. L. & S. F. Ry. Co. v. Johnson*, 25 Okla. 833, 108 Pac. 378. Following 71 Kan. 327, 80 Pac. 592.

Same—no ticket—kicked off by brakeman while trying to reboard train. *H. B.*, question for July ad' to Wanton and willful act of brakeman. *Moore v. A. T. & P. E. Ry. Co.*, 26 Okla. 682, 696, 110 Pac. 1059.

CARRIAGE OF PERSONS

Railway—duty of passenger where train does not stop at destination. Noble v. A. T. & S. F. Ry. Co., 4 Okla. 534, 46 Pac. 483.

Right of railway to eject when passenger refused to pay additional fare to carry him to station beyond destination, at which place only train stops. *Id.*

Conductor—authority to remove trespassers. Must not wantonly or willfully cause injury. Polley v. C. R. I. & P. Ry. Co., 16 Okla. 32.

Ticket unsigned by passenger. Carrier has no right to eject where it did not require ticket to be signed at time of sale. C. R. I. & P. Ry. Co. v. Newburn, 27 Okla. 9, 110 Pac. 1065.

Duty of passenger to pay fare wrongfully demanded in order to avoid ejection. 43 L. R. A. 706-n.

Payment of back fare for distance already ridden as condition of being carried further. 16 L. R. A. 55-n.

Right of passenger to pay fare after train begins to stop for purpose of ejecting him. 16 L. R. A. 53-n.

Ejection of custodian for nonpayment of child's fare. 38 L. R. A. 140-n.

Place where one refusing to pay fare may be ejected. 26 L. R. A. 130-n.

Exposure of drunken passenger to danger by ejection from car. 19 L. R. A. 327-n.

Negligence in ejecting passenger from moving train. 13 L. R. A. (ns) 364-n.

Ejecting passenger through mistake as to identity. 2 L. R. A. (ns) 472-n.

Right to defend expulsion of passenger upon ground other than that relied upon at the time. 14 L. R. A. (ns) 368-n.

Liability for ejection where employe acts in violation of instructions. 18 L. R. A. (ns) 416-n.

Mental suffering as element of damages for wrongful expulsion from train. 12 L. R. A. (ns) 184-n.

Limitation of ticket, time, when used. St. L. & S. F. R. Co. v. Johnson, 25 Okla. 833, 108 Pac. 379.

106. Lien on luggage for fare. A common carrier has a lien upon the luggage of a passenger for the payment of such fare as he is entitled to from him.

Sec. 814, R. L. 1910.

History. Dak. 3898; S. 1890, Sec. 531.

107. Liability of carrier of freight. Unless the consignor accompanies the freight and retains exclusive control thereof, a common carrier of property is liable, from the time he accepts until he relieves himself from liability as hereinafter provided, for the loss or injury thereof from any cause whatever, except:

First. An inherent defect, vice or weakness, or a spontaneous action of the property itself.

Loss—burden of proof. Whether burden is on plaintiff or defendant, *quaere*. C. R. I. & P. Ry. Co. v. Wehrman, 25 Okla. 147, 105 Pac. 328.

Prima facie case, only, sufficient. *Id.*

Second. The act of a public enemy of the United States, or of this State.

Third. The act of the law; or,

Fourth. Any irresistible superhuman cause.

Sec. 815, R. L. 1910.

History. Dak. 3899; S. 1890, Sec. 532.

Loss of merchandise—flood—burden of proof on carrier. C. R. I. & P. Ry. Co. v. Logan, Snow & Co., 23 Okla. 707, 105 Pac. 343; 29 L. R. A. (ns) 663-n. Dissenting opinion by Dunn, J. Citing 114 Am. St. 419; 86 Am. Dec. 415.

108. Same. A common carrier is liable, even in the cases excepted by the preceding section, if his ordinary negligence exposes the property to the cause of the loss.

Sec. 816, R. L. 1910.

History. Dak. 3900; S. 1890, Sec. 533.

CARRIAGE OF PROPERTY

ARTICLE III.

CARRIAGE OF PROPERTY.

- Sec. 109. Definitions.
110. Care required of carrier.
111. Must obey directions.
112. When directions are conflicting.
113. Manner of delivery.
114. Place of delivery.
115. Notice to consignee.
116. Termination of liability.
117. Sale of unclaimed property.
118. Sale of perishable property.
119. Application to hotel-keepers and warehousemen.
120. Bill of lading defined.
121. Bill of lading negotiable.
122. Negotiable by delivery, when.
123. Effect of bill of lading.
124. Sets of bills to consignor.
125. Delivery to holder of bill.
126. Surrender of bill of lading may be required.
127. Freightage due, when.
128. Who liable for freightage.
129. Consignee liable, when.
130. Natural increase.
131. Apportionment of freightage.
132. Acceptance of part of freight.
133. Apportionment according to distance.
134. Extra carriage.
135. Liability for delays.
136. Valuables must be declared.
137. Accepting freight beyond the usual route.
138. Proof of loss.
139. Lien for freightage.
140. Shipments of coal—bill to show weight.
141. Same—reweighing—liability for shrinkage.
142. Same—reweighed on transfer.
143. Consignee may weigh, when.
144. Penalty.
145. Weighing interstate shipments of coal.
146. Weights, how determined.

109. Definitions. Property carried is called freight; the reward, if any, to be paid for its carriage is called freightage; the person who delivers the freight to the carrier is called the consignor, and the person to whom it is to be delivered is called the consignee.

Sec. 817, R. L. 1910.

History. Dak. 3843; S. 1890, Sec. 476.

Depots—right of reasonable control. 30 Okla. 131, 120 Pac. 952; Ann. Cas. 1913-B, 1313.

110. Care required of carrier. A carrier of property for reward must use at least ordinary care and diligence in the performance of all his duties. A carrier without reward must use at least slight care and diligence.

Sec. 818, R. L. 1910.

History. Dak. 3841; S. 1890, Sec. 477.

See Sec. 809, notes, R. L. 1910.

Action for loss—prima facie case. Where goods are delivered to carrier in good condition and delivered to consignee in damaged state, this makes prima facie case. *Armstrong, Byrd & Co. v. T. C. R. Co.*, 26 Okla. 352, 109 Pac. 216.

Same—act of God. Where carrier used every possible effort to deliver good, to connecting carrier and damage occurred by virtue of the unprecedented flood in the Mississippi river, held to be an act of God and to constitute a prima facie defense. *Id.* Following 198 Mo. App. 565, 84 S. W. 158.

Negligence—question of law where facts are such that all reasonable men must draw same conclusion. *St. L. & S. P. Ry. Co. v. Copeland*, 23 Okla. 837, 102 Pac. 191.

30 Okla. 131, 120 Pac. 952; Ann. Cas. 1913-B, 1313.

CARRIAGE OF PROPERTY

111. Must obey directions. A carrier must comply with the directions of the consignor or consignee, to the same extent that an employee is bound to comply with those of his employer.

Sec. 819, R. L. 1910.

History. Dak. 3845; S. 1890, Sec. 478.

112. When directions are conflicting. When the directions of a consignor and consignee are conflicting, the carrier must comply with those of the consignor in respect to all matters except the delivery of the freight, as to which he must comply with the directions of the consignee, unless the consignor has specially forbidden the carrier to receive orders from the consignee, inconsistent with his own.

Sec. 820, R. L. 1910.

History. Dak. 3846; S. 1890, Sec. 479.

113. Manner of delivery. A carrier of property must deliver it to the consignee at the place to which it is addressed in the manner usual at that place.

Sec. 821, R. L. 1910.

History. Dak. 3848; S. 1890, Sec. 481.
36 Okla. 517, 129 Pac. 734.

114. Place of delivery. If there is no usage to the contrary at the place of delivery, freight must be delivered as follows:

First. If carried upon a railway owned and managed by the carrier, it may be delivered at the station nearest the place to which it is addressed.

Second. In other cases, it must be delivered to the consignee or his agent personally, if either can, with reasonable diligence, be found.

Sec. 822, R. L. 1910.

History. Dak. 3849; S. 1890, Sec. 482.
39 Okla. 179, 134 Pac. 856.

115. Notice to consignee. If, for any reason, a carrier does not deliver freight to the consignee or his agent, personally, he must give notice to the consignee of its arrival, and keep the same in safety, upon his responsibility as a warehouseman, until the consignee has had a reasonable time to remove it. If the place of residence or business of the consignee be unknown to the carrier, he may give the notice by letter dropped in the nearest postoffice.

Sec. 823, R. L. 1910.

History. Dak. 3850; S. 1890, Sec. 483.
Necessity of notice of arrival of goods to reduce liability of carrier to that of warehouseman. 18 L. R. A. (ns) 427-n.
Time of notice to warrant special damages for failure of carrier to deliver property. 3 L. R. A. (ns) 1111-n.

116. Termination of liability. If a consignee does not accept and remove freight within a reasonable time after the carrier has fulfilled his obligation to deliver, or duly offered to fulfill the same, the carrier may exonerate himself from further liability by placing the freight in a suitable warehouse, on storage, on account of the consignee, and giving notice thereof to him.

Sec. 824, R. L. 1910.

History. Dak. 3851; S. 1890, Sec. 484.

CARRIAGE OF PROPERTY

What is a reasonable time for removal of goods by consignee after which liability of carrier as such terminates. 25 L. R. A. (ns) 938-n.

Termination of carrier's liability as such as affected by its fault preventing removal of goods. 8 L. R. A. (ns) 235-n.

Necessity of notice of arrival of goods to reduce liability to that of a warehouseman. 18 L. R. A. (ns) 427-n.

40 L. R. A. (ns) 773.

117. Sale of unclaimed property. Whenever any trunk, carpet-bag, valise, bundle, package or article of property transported or coming into the possession of any railroad, or express company, or any other common carrier in the course of his or its business as common carrier, shall remain unclaimed and the legal charges thereon unpaid during the space of six months after its arrival at the point to which it shall have been directed, and the owner or person to whom the same is consigned cannot be found upon diligent inquiry, or, being found and notified of the arrival of such article, shall refuse or neglect to receive the same and pay the legal charges thereon for the space of three months, it shall be lawful for such common carrier to sell such article at public auction, after giving the owner or consignee fifteen days' notice of time and place of sale, through the postoffice if his address is known, or by advertising in a newspaper published in the county where such sale is made, and out of the proceeds of such sale to pay all legal charges on such articles, and the amount over, if any, shall be paid to the owner or consignee upon demand.

Sec. 825, R. L. 1910.

History. Dak. 3852; S. 1890, Sec. 485.
37 Okla. 492, 132 Pac. 491.

118. Sale of perishable property. When perishable property has been transported to destination and the owner or consignee on being notified of its arrival, refuses or neglects to receive the same and pay the legal charges thereon; or if, upon diligent inquiry, the consignee cannot be found, the carrier may, in the exercise of a reasonable discretion, sell the same at public or private sale without advertising, and the proceeds, after deducting the freight and charges and expenses of sale shall be paid to the owner or consignee upon demand.

Sec. 826, R. L. 1910.

History. Dak. 3853; S. 1890, Sec. 486.

119. Application to hotel-keepers and warehousemen. The provisions of this chapter shall apply to hotel-keepers and warehousemen.

Sec. 827, R. L. 1910.

History. Dak. 3851; S. 1890, Sec. 487.

120. Bill of lading defined. A bill of lading is an instrument in writing, signed by a carrier or his agent, describing the freight so as to identify it; stating the name of the consignor and the terms of the contract for carriage, which may include reasonable requirements as to notice and demand of damages; and agreeing or directing that the freight be delivered to the order or assigns of a specified person at a specified place.

Sec. 828, R. L. 1917.

CARRIAGE OF PROPERTY

History. Dak. 3855; S. 1890, Sec. 488. Revision: Language inserted to permit "reasonable requirements as to notice and demand of damages;" this appearing to be in the interests of justice.

Bill of lading (Sunday). 31 Okla. 785, 123 Pac. 1122.

121. Bill of lading negotiable. All the title to the freight which the first holder of a bill of lading had when he received it passes to every subsequent indorsee thereof, in good faith and for value, in the ordinary course of business, with like effect and in like manner as in the case of a bill of exchange.

Sec. 829, R. L. 1910.

History. Dak. 3856; S. 1890, Sec. 489.
43 Okla. 251, 142 Pac. 1002.

122. Negotiable by delivery, when. When a bill of lading is made to bearer, or in equivalent terms, a simple transfer thereof by delivery conveys the same title as an indorsement.

Sec. 830, R. L. 1910.

History. Dak. 3857; S. 1890, Sec. 490.
43 Okla. 251, 142 Pac. 1002.

123. Effect of bill of lading. A bill of lading does not alter the rights or obligation of the carrier, as defined in this chapter, unless it is plainly inconsistent therewith.

Sec. 831, R. L. 1910.

History. Dak. 3858; S. 1890, Sec. 491.

124. Sets of bills to consignor. A carrier must subscribe and deliver to the consignor, on demand, any reasonable number of bills of lading, of the same tenor, expressing truly the original contract for carriage; and if he refuses to do so, the consignor may take the freight from him, and recover from him, besides, all damages thereby occasioned.

Sec. 832, R. L. 1910

History. Dak. 3859; S. 1890, Sec. 492.

125. Delivery to holder of bill. A carrier is exonerated from liability for freight by delivery thereof, in good faith, to any holder of a bill of lading therefor, properly indorsed or made in favor of the bearer.

Sec. 833, R. L. 1910.

History. Dak. 3860; S. 1890, Sec. 493.

To whom delivery may be made under bill of lading. 38 L. R. A. 358-n.

126. Surrender of bill of lading may be required. When a carrier has given a bill of lading or other instrument substantially equivalent thereto, he may require its surrender, or a reasonable indemnity against claims thereon, before delivering the freight.

Sec. 834 R. L. 1910.

History. Dak. 3861; S. 1890, Sec. 494.
31 Okla. 218, 120 Pac. 1090.

127. Freightage due, when. A carrier may require his freightage to be paid upon his receiving the freight; but if he does not demand it then, he cannot until he is ready to deliver the freight to the consignee.

Sec. 835, R. L. 1910.

History. Dak. 3862, S. 1890, Sec. 495.

CARRIAGE OF PROPERTY

128. Who liable for freightage. The consignor of freight is presumed to be liable for the freightage, but if the contract between him and the carrier provides that the consignee shall pay it, and the carrier allows the consignee to take the freight, he cannot afterwards recover the freightage from the consignor.

Sec. 836, R. L. 1910.

History. Dak. 3863; S. 1890, Sec. 496.

129. Consignee liable, when. The consignee of freight is liable for the freightage, if he accepts the freight with notice of the intention of the consignor that he should pay it.

Sec. 837, R. L. 1910.

History. Dak. 3864; S. 1890, Sec. 497.

130. Natural increase. No freightage can be charged upon the natural increase of freight.

Sec. 838, R. L. 1910.

History. Dak. 3865; S. 1890, Sec. 498.

131. Apportionment of freightage. If freightage is apportioned by a bill of lading, or other contract made between a consignor and carrier, the carrier is entitled to payment according to the apportionment for so much as he delivers.

Sec. 839, R. L. 1910.

History. Dak. 3866; S. 1890, Sec. 499.

132. Acceptance of part of freight. If a part of the freight is accepted by a consignee without a specific objection that the rest is not delivered, the freightage must be apportioned and paid as to that part, though not apportioned in the original contract.

Sec. 840, R. L. 1910.

History. Dak. 3867; S. 1890, Sec. 500.

133. Apportionment according to distance. If a consignee voluntarily receives freight at a place short of the one appointed for delivery, the carrier is entitled to a just proportion of the freightage, according to distance. If the carrier, being ready and willing, offers to complete the transit, he is entitled to the full freightage. If he does not thus offer completion, and the consignee receives the freight only from necessity, the carrier is not entitled to any freightage.

Sec. 841, R. L. 1910.

History. Dak. 3868; S. 189, Sec. 501.

134. Extra carriage. If freight is carried further, or more expeditiously, than was agreed upon by the parties, the carrier is not entitled to additional compensation, and cannot refuse to deliver it on the demand of the consignee at the place and time of its arrival.

Sec. 842, R. L. 1910.

History. Dak. 3869; S. 1890, Sec. 502.

135. Liability for delays. A common carrier is liable for delay only when it is caused by his want of ordinary care and diligence.

Sec. 843, R. L. 1910.

History. Dak. 3901; S. 531.

Right of consignee, as against carrier, to reject consignment of freight for delay in transportation. 12 L. R. A. (189) 431-n.

CARRIAGE OF PROPERTY

Delay due to inadequate facilities. 10 L. R. A. (ns) 432-n.

Action of public authorities under police power as defense to carrier for delay. 21 L. R. A. (ns) 731-n; and 28 L. R. A. (ns) 139-n.

Constitutionality of legislation affecting amount of liability or penalty for delay in delivery or for destruction of freight. 29 L. R. A. (ns) 126-n.

136. Valuables must be declared. A common carrier of gold, silver, platina, or precious stones, or of imitations thereof, in a manufactured or unmanufactured state, or time-pieces of any description, of negotiable paper or other valuable writings, of pictures, glass or china ware, is not liable for more than fifty dollars upon the loss or injury of any one package of such articles, unless he has notice, upon his receipt thereof, by mark upon the package, or otherwise, of the nature of the freight.

Sec. 844, R. L. 1910.

History. Dak. 3904; S. 1890, Sec. 537.

137. Accepting freight beyond the usual route. If a common carrier accepts freight for a place beyond his usual route, he must, unless he stipulates otherwise, deliver it at the end of his route in that direction to some other competent carrier, carrying to the place of address, or connected with those who thus carry, and his liability ceases upon making such delivery.

Sec. 845, R. L. 1910.

History. Dak. 3905; S. 1890, Sec. 538.

42 Okla. 105, 140 Pac. 1176; 29 Okla. 856, 119 Pac. 993; 29 Okla. 850, 140 Pac. 223; 42 Okla. 183, 140 Pac. 1160.

138. Proof of loss. If freight, addressed to a place beyond the usual route of the common carrier who first received it, is lost or injured, he must, within a reasonable time after demand, give satisfactory proof to the consignor that the loss or injury did not occur while it was in his charge, or he will be himself liable therefor.

Sec. 846, R. L. 1910.

History. Dak. 3906; S. 1890, Sec. 539.

Connecting carriers of freight—liabilities. In absence of evidence of partnership or joint arrangement, each liable only for injury occurring on its own line; and facts showing this must be alleged. *Church v. A. T. & S. F. Ry. Co.*, 1 Okla. 44, 29 Pac. 530.

Connecting carriers—presumption as to injury. In absence of a record of proof to the contrary, the law presumes that goods were in good condition when received from a connecting line. *St. L. & S. F. R. Co. v. McGivney*, 19 Okla. 361, 91 Pac. 693.

"**Demand**" as used in this statute does not mean a demand for payment for the loss. *Id.*

On failure of shipper to demand proof as provided herein upon election to sue first carrier for the loss, the burden of fixing the liability is upon him; and he cannot then take advantage of these provisions. *Id.*

149 Pac. 223, 29 Okla. 850.

139. Lien for freightage. A carrier has a lien for freightage, which is regulated by the chapter on liens.

Sec. 847, R. L. 1910.

History. Dak. 3870; S. 1890, Sec. 503.

Maritime lien for freight. 70 L. R. A. 368-n.

Waiver of lien by attachment or execution. 50 L. R. A. 721-n.

140. Shipments of coal—bill to show weight. Whenever any coal is shipped over any common carrier from any point within the State of Oklahoma to any other point within the said State, the common carrier transporting such coal shall issue a bill of lading stating the true weight of the coal so transported.

Sec. 848, R. L. 1910.

History. L. 1907-8, p. 271; effective May 29, 1908.

CARRIAGE OF PROPERTY

141. Same—re-weighing—liability for shrinkage. When said coal arrives at its destination, the said carrier shall cause the same to be weighed at that point, provided it has scales at that point, and if not, then it shall cause said coal to be weighed at the nearest track scales on its line between the point of shipment and the point of destination, and if the weight of said coal at the point of delivery is less than the weight set out in the bill of lading, the carrier delivering to the consignee shall be liable to the consignee for all deficiencies in weight, less the natural shrinkage, which shall not exceed one per cent for a one hundred and fifty mile haul or less, and one and one-half per cent on more than a one hundred and fifty mile haul; and the measure of damage of the consignee for such deficiency or shortage shall be the value of the deficiency at the point of destination less freight thereon if the freight has not been paid; and in weighing cars of coal they shall be detached from the train, and in the event the loss or shortage does not occur on the delivering line the carrier delivering to the consignee shall be entitled to recover from the carrier upon whose line the loss or shortage occurred, such amount for the loss or shortage as the carrier delivering to the consignee may be required to pay to the consignee as may be evidenced by any receipt, judgment or transcript thereof.

Sec. 849, R. L. 1910.

History. L. 1907-8, p. 271; effective May 29, 1908.

142. Same—re-weighed on transfer. In case any coal shipped shall be carried over the lines of the connecting carriers, the carrier receiving said coal shall cause the correct weight thereof to be placed in the bill of lading, and such coal shall be re-weighed when delivered to the connecting carrier, and the value of the coal at the point of destination shall be the measure of damages.

Sec. 850, R. L. 1910.

History. L. 1907-8, p. 272; effective May 29, 1908.

143. Consignee may weigh, when. In case the carrier shall fail or refuse to weigh said coal at its destination or at the nearest track scales to the point of destination between said point and the point of shipment, the consignee may weigh said coal, and his weights shall be prima facie evidence of the amount of coal received, and the carrier shall be liable in damages as set out in this article for any shortage between the actual quantity received at the point of destination and the amount named in the bill of lading; Provided, that if the consignee shall have the coal weighed at the point of destination, on other than track scales, an allowance of ten pounds per ton shall be deducted from the weight.

Sec. 851, R. L. 1910.

History. L. 1907-8, p. 272; effective May 29, 1908.

144. Penalty. Any agent, servant or employee of any carrier who shall fail or refuse to weigh any coal at its point of destination, or shall knowingly or wilfully make false weights of such coal, or in case there are no track scales at the point of destination at the nearest track scales passed in its transit from its point of shipment

SEPARATE COACH LAW

such agents, servants or employees shall be deemed guilty of misdemeanor, and shall be punished by a fine of not less than fifty nor more than one hundred dollars, or be imprisoned not less than thirty days nor more than sixty days, or both such fine and imprisonment.

Sec. 852, R. L. 1910.

History. L. 1907-8, p. 272; effective May 29, 1908.

145. Weighing interstate shipments of coal. Whenever any coal shall be brought into this State by any carrier where the point of shipment is outside of the State, the same shall be weighed by the carrier at the nearest track scales within the State to the state line; and after being so weighed, as to its further carriage all of the provisions of this article shall apply thereto in the same manner as if the shipment originated within this State.

Sec. 853, R. L. 1910.

History. L. 1907-8, p. 273; effective May 29, 1908.

146. Weights—how determined. In case any contention shall arise between the consignee and the carrier in regard to the shortage of coal on any car, the car shall be weighed first while loaded and then the empty car shall be weighed and the actual gross and net weights shall be ascertained, and the stencil weight of any car marked thereon shall not be taken in any case as a true weight of said car.

Sec. 854, R. L. 1910.

History. L. 1907-8, p. 273; effective May 29, 1908.

ARTICLE IV.

SEPARATE COACH LAW.

Sec.

147. Separate coaches.

148. Separate waiting rooms.

149. Negro defined.

150. Separate coach defined.

151. Penalty for violation by company.

152. Penalty for violation by passenger.

153. Not applicable to peace officers.

154. Act must be posted in depots and cars.

155. Special trains.

156. Power of conductors.

157. Fines to go to school fund.

Effective December 18, 1907.

147. Separate coaches. Every railway company, urban or suburban car company, street car or interurban car railway company, lessee, manager or receiver thereof, doing business in this State, as a common carrier of passengers for hire shall provide separate coaches or compartments, as hereinafter provided, for the accommodation of the white and negro races, which separate coaches or cars shall be equal in all points of comfort and convenience.

Sec. 860, R. L. 1910.

History. L. 1907-8, p. 201.

Right of carrier independently of statute, to separate passengers on account of race. 11 L. R. A. (ns) 268-n.

Liability for placing white passenger in car for colored persons. 2. L. R. A. (ns) 1108-n.

36 Okla. 127, 128 Pac. 98; colored passengers in freight coaches, 39 Okla. 60, 134 Pac. 47.

SEPARATE COACH LAW

148. Separate waiting rooms. Every railroad company, street car company, urban, suburban, or interurban car company shall provide for and maintain separate waiting rooms at all their passenger depots for the accommodation of the white and negro races, which separate waiting rooms shall be equal in all points of comfort and convenience. Each waiting room shall bear in a conspicuous place words in plain letters indicating the race for which it is set apart. It shall be unlawful for any person to use, occupy or to remain in any waiting room, toilet room, or at any water tank in any passenger depot in this State, set apart to a race to which he does not belong.

Sec. 861, R. L. 1910.

History. L. 1907-8, p. 202.
39 Okla. 677, 136 Pac. 396.

149. Negro defined. The term negro, as used herein, includes every person of African descent, as defined by the constitution.

Sec. 862, R. L. 1910.

History. L. 1907-8, p. 202.

150. Separate coach defined. Each compartment of a railway coach, divided by a good and substantial wooden partition, with a door therein, shall be deemed a separate coach within the meaning of this article, and each separate coach shall bear in some conspicuous place appropriate words in plain letters indicating the race for which it is set apart; and each compartment of an urban or suburban car company, interurban car or railway company, or street car company, divided by a board or marker, placed in a conspicuous place, bearing appropriate words in plain letters, indicating the race for which it is set apart, shall be sufficient as a separate compartment within the meaning of this article.

Sec. 863, R. L. 1910.

History. L. 1907-8, p. 202.

151. Penalty for violation by company. Any railway company, street car company, urban or suburban car company, or interurban car or railway company, lessee, manager or receiver thereof, which shall fail to provide its cars, bearing passengers, with separate coaches or compartments as above provided, or fail to provide and maintain separate waiting rooms as provided herein, shall be liable for each and every failure to a penalty of not less than one hundred nor more than one thousand dollars, to be recovered by suit in the name of the State, in any court of competent jurisdiction, and each trip run with such railway train, street car, urban, suburban or interurban car without such separate coach or compartment shall be deemed a separate offense.

Sec. 864, R. L. 1910.

History. L. 1907-8, p. 202.
39 Okla. 677, 136 Pac. 396.

152. Penalty for violation by passenger. If any passenger upon a railway train, street car, urban, suburban or interurban car provided with separate coaches or compartments as above provided shall ride in any coach or compartment not designated for his race, after

SEPARATE COACH LAW

having been forbidden to do so by the conductor in charge of the train or car, or shall remain in any waiting room not set apart for the race to which he belongs, he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five nor more than twenty-five dollars.

Should any passenger refuse to occupy the coach or compartment or room to which he or she is assigned by the officer of such railway company, said officer shall have the power to refuse to carry such passenger on his train, and should any passenger or any other person not a passenger, for the purpose of occupying or waiting in such sitting or waiting room not assigned to his or her race, enter said room, said agent shall have the power and it is made his duty to eject such person from such room, and for such neither they nor the railroad company which they represent shall be liable for damages, in any of the courts of this State.

Sec. 865, R. L. 1910.

History. L. 1907-8, p. 203.

153. Not applicable to peace officers — other exceptions.

The provisions of this act shall not be so construed as to extend to officers having in custody any person or persons, or employees upon trains or cars in the discharge of their duties, nor shall it be construed to apply to such freight trains as carry passengers in cabooses, provided that nothing herein contained shall be construed to prevent railway companies in this state from hauling sleeping cars or dining cars or chair cars attached to their trains for use exclusively for either white or negro passengers separately but not jointly; and, provided further, that the Corporation Commission shall have power and authority to exempt any station or depot from the requirements of this act, for such period of time as may be ordered in any city or town where no negroes reside.

Sec. 1, Ch. 119, S. L. 1910-11, amending Sec. 7, Art. 1, Ch. 15, L. 1907-8.

Cited, construed, etc. 39 Okla. 60, 134 Pac. 47.

154. Act must be posted in depots and cars. Every railway company carrying passengers in this State shall keep this law posted in a conspicuous place in each passenger depot and in each passenger coach provided in this law.

Sec. 867, R. L. 1910.

History. L. 1907-8, p. 203.

155. Special trains. Nothing in this article shall be construed to prevent the running of extra or special trains or cars for the exclusive accommodation of either white or negro passengers, if the regular trains or cars are operated as required by this article and upon regular schedule.

Sec. 868, R. L. 1910.

History. L. 1907-8, p. 203.

156. Power of conductors. Conductors of passenger trains, street cars, urban, suburban or interurban lines provided with separate coaches or compartments shall have the authority to refuse any passenger admittance to any coach or compartment in which

RAILROADS

they are not entitled to ride under the provisions of this article, and the conductor in charge of the train, street car, urban, suburban or interurban car shall have authority, and it shall be his duty to remove from the train, coach, street car, urban, suburban or interurban car, any passenger not entitled to ride therein under the provisions of this article; upon his refusal to do so knowingly shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than fifty nor more than five hundred dollars, and the company, manager, agent, conductor, receiver or other officer, shall not be held for damages for any lawful removal of a passenger as provided herein.

Sec. 869, R. L. 1910.

History. L. 1907-S, p. 204.
36 Okla. 127, 128 Pac. 98.

157. Fines to go to school fund. All fines collected under the provisions of this article shall go to the available common school fund of the county in which conviction is had. Prosecutions under the provisions of this article may be instituted in any court of competent jurisdiction, in any county through or into which said railroad, urban, suburban, or interurban railway may be run or have an office.

Sec. 870, R. L. 1910.

History. L. 1907-S, p. 204.

ARTICLE V.

MANNER OF INCORPORATION—DUTIES, ETC.

Sec.

- 158. Articles and certificate.
- 159. Directors to open stock books.
- 160. Directors.
- 161. Officers.
- 162. Stock deemed personal estate.
- 163. Capital stock—how increased.
- 164. Powers of railroad corporations.
- 165. May borrow money.
- 166. Extensions and branches may be built.
- 167. Route may be changed, when.
- 168. Changing corporate name.
- 169. To restore stream or highway.
- 170. Construction over highway.
- 171. What property subject to mortgage.
- 172. Execution of conveyance or lease.
- 173. Vendor's lien on equipment.
- 174. Manner of recording contract—fees.
- 175. Directors may set aside money for payment of debts.
- 176. Defense of usury prohibited.
- 177. Directors may be classified.
- 178. Annual report to stockholders.

158. Articles and certificate. Any number of persons, not less than five, may form a corporation for the purpose of constructing, maintaining and operating a railroad for the transportation of freight and passengers, and for the purpose of maintaining and operating any railroad already constructed for the like purpose, by making articles of organization in which shall be stated:

First. Name—the name of the corporation.

Second. Termini—the place from and to which such railroad is to be constructed, or maintained and operated, as the case may be.

MANNER OF INCORPORATION—DUTIES, ETC.

Third. Length and route—the estimated length of such railroad and name of each county in this State through or into which it is made or intended to be made.

Fourth. Stock—the amount of the capital stock of the corporation, the number of shares of which it shall consist, and, if such stock shall consist of common and preferred stock, the number and amount of each class.

Fifth. Directors and their duty—the names and residences of the directors of the corporation, who shall manage its affairs for the first year, and until others are chosen in their places, and who shall be not less than five nor more than thirteen in number; and each such person shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in such corporation. There shall be annexed to such articles an affidavit of at least three of the directors therein named, that the signatures thereto are genuine, and that it is intended in good faith to construct or maintain and operate the railroad therein mentioned; and thereupon said articles and affidavits shall be filed in the office of the secretary of state, who shall endorse thereon the date of their filing, and record the same. After such filing a patent under the seal of the State, signed by the governor and secretary of State, shall be issued in substantially the following form:

To all to whom these presents shall come, Greeting:

Whereas (naming the person subscribing the articles of organization), have filed in the office of the secretary of state certain articles of organization with a view of forming a corporation to be known as (here insert the name), and with a capital of (here insert the amount), for the purpose of constructing, maintaining and operating or maintaining and operating a railroad from----- to -----, and having complied with the provisions of the statutes in such cases made and provided; therefore the State of Oklahoma hereby grants unto the above-named persons and their associates, successors and assigns, full authority by and under the said name of ----- to exercise the powers and privileges of a corporation for the purpose above stated and in accordance with their said articles of organization and the laws of this state.

In witness whereof these presents have been attested with the great seal and signed and countersigned by the governor and secretary of state, at----- the ----- day of -----, in the year one thousand nine hundred and -----.

Governor.

Secretary of State.

Upon the issue of such patent, the subscribers to such articles, and all persons who shall hereafter become stockholders in such corporation shall be a corporation by the name specified in such articles, and shall possess all the powers and privileges, and be subject to all the provisions of the law regulating railroad corporations and the provisions of this chapter applicable thereto.

Sec. 1376, R. L. 1910.

History. Dak. 2972; S. 1890. Sec. 1027.

43 ORLA. 174, 141 Pac. 1.

159. Directors to open stock books. When such patent is issued the directors may, in case the whole of the capital stock shall not have been before subscribed, open books of subscription to fill

RAILROADS

up the capital stock, at such place and after giving such notice as they may deem expedient, and may from time to time receive subscriptions until the capital stock is subscribed.

Sec. 1377, R. L. 1910.

History. Dak. 2973; S. 1890, Sec. 1028.

160. Directors. There shall be a board of not less than five nor more than thirteen directors of every such corporation, to manage its affairs, who shall be elected at such time, in such manner, and for such terms, as shall be prescribed by its by-laws, and shall hold their offices until their respective successors shall be chosen. In the election of directors each stockholder shall be entitled to one vote, either in person or by proxy, for every share of stock owned by him for thirty days next preceding such election. Vacancies shall be filled in the manner prescribed by the by-laws. Inspectors of the first elections of directors shall be appointed by the board of directors named in the articles of organization and thereafter as provided by the by-laws. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own name, or as trustees or personal representative, and qualified to vote at the election at which he shall be chosen; and at every election of directors the books and papers of such corporation shall be exhibited to the meeting if a majority of the stockholders present shall require it. If, for any reason, the election of directors shall not have been held at the time fixed therefor by law, the same may be held at any time thereafter on a notice of twenty days. Such election may be called by a majority of the directors, or by the stockholders holding a majority of the stock; but at any meeting at which all the stockholders shall be present or be represented by attorney or proxy, it shall be lawful to waive notice, and proceed to an election of directors.

Sec. 1378, R. L. 1910.

History. Dak. 2974; S. 1890, Sec. 1029.

161. Officers. The directors shall appoint one of their number president; they also may appoint a vice-president, secretary and treasurer, and such other officers and agents as shall be prescribed by the by-laws of such corporation.

Sec. 1379, R. L. 1910.

History. Dak. 2975; S. 1890, Sec. 1030.

162. Stock deemed personal estate. The stock of every such corporation shall be deemed personal estate, and shall be transferable in the manner prescribed in its by-laws.

Sec. 1380, R. L. 1910.

History. Dak. 2977; S. 1890, Sec. 1032. Revision: Provision that shares are not transferable until all calls are paid stricken, as under Sec. 39, ART. IX, Const., took cannot be framed until paid up.

163. Capital stock—how increased. The capital stock of any such corporation may be increased to such amount as may by its stockholders be deemed necessary for the construction or operation of its road, by a vote of the owners of at least two-thirds of all its stock, in person or by proxy, at any annual meeting, or at

MANNER OF INCORPORATION—DUTIES, ETC.

any meeting called by its directors for that purpose, by a notice in writing to each stockholder, or to be served on him personally, or by depositing the same in postoffice, postage paid, properly directed to him at the postoffice, if known, nearest his usual place of residence, at least twenty days prior to such meeting. Such notice shall state the time and place of such meeting, its object and the amount to which it is proposed to increase such capital stock. No vote in favor of such increase shall take effect until the proceedings of such meeting, showing the names of all the stockholders voting therefor, and the amount of stock owned by each shall be entered upon the records of such corporation.

Sec. 1381, R. L. 1910.

History. Dak. 2978; S. 1890, Sec. 1033.

164. Powers of railroad corporations. Every corporation formed under this article and every railroad corporation, authorized to construct, operate or maintain a railroad within this State, shall be a body corporate by the name designated in its articles, shall have perpetual succession, shall have the right to sue and be sued, may have a common seal and alter the same at pleasure, and shall also have power:

First. To cause such examination and surveys for its proposed railroad to be made, either within or without this State, as may be necessary to the selection of the most advantageous route; and for such purpose, by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damage which shall be done thereto.

Second. To take and hold such voluntary grants of real estate and other property, either within or without this State, as may be made to it to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grant shall be held and used for the purposes of such grant only.

Subscription to railroad valid. *Guss v. Fed. Trust Co.*, 19 Okla. 138, 91 Pac. 1045; *Guthrie & W. R. R. Co. v. Rhodes*, 19 Okla. 21, 91 Pac. 1119, 21 L. R. A. (ns) 490; *Sparks v. Okla. Constr. Co.*, 19 Okla. 55, 91 Pac. 839.

Railroad right of way—grant in praesenti where, by act of Congress, company is authorized to take and use for all purposes. *Whaley v. Choctaw Railway Co.*, 4 Okla. 470, 46 Pac. 506.

Same—homestead settlement after act is subject to rights of company. *Id.*

Grant by Congress. Railway entitled to benefits of territory laws. *U. S. ex rel. v. C. O. & G. Ry. Co.*, 3 Okla. 502, 41 Pac. 729; 26 Kan. 669.

Third. To acquire under the provisions of this article, or by purchase, all such real estate and other property, either within or without this State, as may be necessary for the construction, maintenance and operation of its railroad, and the station, depot grounds, and other accommodations reasonably necessary to accomplish the objects of its incorporation; to hold and use the same, to lease or otherwise dispose of any part or parcel thereof, or sell the same when not required for railroad uses, and no longer necessary to its use.

Fourth. To lay out its road, not exceeding one hundred feet in width, either within or without this State, and to construct the

RAILROADS

same; and for the purpose of cuttings and embankments and of obtaining gravel or other material to take such land as may be necessary for the proper construction, operation and security of the road, and for the protection of such road from snow, and to cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided by law for lands taken for the use of the corporation.

Fifth. Subject to the provisions of Sec. 1388 (170), to construct its railroad across, along or upon and stream of water, water-course, street, highway, toll or wagon road, plank road, turnpike, wharf, levee, river front, steamboat or other public landing, or canal which its route shall intersect, or touch; to carry any highway, street, toll, or wagon road, plank road, turnpike, which it shall touch, intersect, or cross, over or under its track, as may be most expedient for the public good; to change the course or direction of any highway, street, turnpike, toll or wagon road, or plank road, when made necessary or desirable to secure more easy ascent or descent by reason of an embankment or cut made in the construction of the railroad, and take land necessary therefor: Provided, that such highway or road be not so changed from its original course more than six rods, nor its distance lengthened more than five rods.

Sixth. To cross, intersect, join, and unite its railroad with any railroad heretofore or hereafter constructed, at any point on its route, and upon the grounds of such railroad corporation, with the necessary turnouts, sidings, and switches, and other conveniences in furtherance of the objects of its connections. And every corporation whose railroad is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersection and connections and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of the compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined in the manner provided by law for the ascertainment and determination of damages for the taking of real property. But no corporation which shall have obtained the right of way and constructed its road at the point of intersection before the application for the appointment of commissioners may be made shall be required to alter the grade or change the location of its road, or be required to bear any part of the expense of making and maintaining such crossings.

This subdivision not in conflict with constitution. Art. 9, Sec. 18 (Bunn's Ed. Sec. 222), giving powers to Corporation Commission. *M. K. & T. Ry. Co. v. Richardson, Judge, et al.*, 25 Okla. 619, 106 Pac. 1198.

Seventh. To have and use equal room, ground, rights, privileges and conveniences for tracks, switches, sidings and turnouts upon any levee, river bank or front, steamboat or other public landing, and upon any street, block, alley, square, or public ground within any incorporated town or city, any charter or ordinance of any such town or city to the contrary notwithstanding; and to

MANNER OF INCORPORATION—DUTIES, ETC.

accomplish this, may adjust, with other corporations, the ground to be occupied by each with such tracks, switches, sidings and turn-outs; and if such corporations cannot agree upon such adjustment, and the amount of compensation to be paid for the purchase or necessary change of location and removal of any track previously laid, the same shall be ascertained and determined, and the common, mutual and separate rights adjusted in the manner provided by law for the ascertainment and determination of damages for the taking of real property. The commissioners provided by law may employ a competent engineer, and define, locate and plat the ground and assign to each corporation the part for the tracks and other conveniences for each, and may require the removal or purchase of tracks previously laid, so as to settle justly the rights of each corporation upon such ground, and assess the damages to be paid under the law providing for the taking of real property.

Eighth. To take and convey persons or property over their railroad by the power or force of steam or of animals, or by any mechanical power either within or without this State, and to receive compensation therefor, and to do all the business incident to railroad corporations.

Ninth. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of their passengers, freight and business, subject to the statutes in relation thereto.

Tenth. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor.

Sec. 1382, R. L. 1910.

History. Dak. 2980; S. 1890, Sec. 1035.

165. May borrow money. Every such corporation shall have the power to borrow from time to time such sums of money at such rates of interest and upon such terms as the corporation or board of directors shall agree upon and authorize as necessary or expedient, and to execute trust deeds or mortgages, or both, as occasion may require, on any railroads or parts thereof, constructed or in process of construction, for amounts borrowed or owing by the corporation, and therein to make provision granting, transferring, or mortgaging their railroad track, right of way, depot grounds, rights, privileges, franchises, immunities, exemptions, machine houses, rolling stock, furniture, tools, implements, appendages and appurtenances used in connection with such railroads in any manner whatever, then belonging to the corporation or which may thereafter belong to it, as security for any bonds or evidence of debt therein mentioned, in such manner as the corporation or directors shall think proper, and such instruments shall fully convey the same or so much thereof as shall be therein described. In case of sale by virtue of any such trust deed, or upon foreclosure of any such mortgage, the persons acquiring title under such sale and

RAILROADS

their associates, successors and assigns, or such corporation as they shall organize according to sec. 1376 (158), with all the powers conferred upon corporations by this article, shall thereafter have, exercise and enjoy all such described grants which were purchased at such sale, including all rights, privileges, grants, franchises, immunities and advantages mentioned in such instruments which were possessed by such corporation making the same or contracting such debts, so far as the same relate or appertain to that portion or line of road granted or mortgaged and purchased at such sale and no further, as fully and absolutely in all respects as such corporation, its shareholders, officers and agents might have done if such sale had not taken place. And whenever the person so acquiring title under any such sale shall own or represent a majority in amount of the bonds or other evidences of debt secured by any such trust deed or mortgage, and shall also include the persons who owned at the time of the sale a majority in amount of the capital stock of such mortgage or corporation, such purchasers and such corporation as they shall organize as aforesaid, shall also have, possess and enjoy any exemption, privilege or immunity previously granted by any law to such former corporation relating to any of the property so acquired, to the same extent as if such latter corporation had been named in such law as the grantee thereof.

Sec. 1383, R. L. 1910.

History. Dak. 2981; S. 1890, Sec. 1036.

166. Extensions and branches may be built. Any railroad corporation may, under the provisions of this article, extend its road from any point named in its charter or articles of organization, or may build branch roads either from any point on its line of road or from any point on the line of any other road connecting or to be connected with its road, the use of which other roads between such points and the connection with its own road such corporation shall have secured by lease or agreement for a term of not less than ten years from its date. Before making such extension or building any such branch road, such corporation shall, by resolution of its directors, to be entered in the record of its proceedings, designate the route of such proposed extension or branch in the manner provided in sec. 1376 (158), and file a copy of such record, certified by the president and secretary, in the office of the secretary of state, and cause the same to be recorded as provided in said sec. 1376 (158). Thereupon such corporation shall have all the rights and privileges to make such extension or build such branch and receive aid thereto which it would have had if it had been authorized in its charter or articles of organization. But this section shall not be construed to authorize any railroad corporations to consolidate with each other.

Sec. 1384, R. L. 1910.

History. Dak. 2981; S. 1890, Sec. 1039.

167. Route may be changed, when. The board of directors of every railroad corporation may, by a vote of two-thirds of the

MANNER OF INCORPORATION—DUTIES, ETC.

whole number, at any time alter the route or any portion of the route of their road, or any extension or branch thereof, or part of their road, or any extension or branch as constructed, if it shall appear to them that the line can be improved thereby; but no railroad shall be so diverted from any county, town, or city which in its corporate capacity shall have extended aid to such road, either while in the hands of the then present owner or any former person or corporation; and no such alteration shall be made in any city or town after the road shall have been constructed therein, unless the same shall have been sanctioned by a vote of two-thirds of the legal voters of such county, town, or city, the council of such city, or the trustees of such town. Before making any such alteration the board of directors shall designate the route thereof by resolution, to be entered in its records, filed and recorded in the office of the secretary of state, as provided in the preceding section; thereupon it shall have the same rights and privileges to build such road as altered, as if it were the original line.

Sec. 1385, R. L. 1910.

History. Dak. 2985; S. 1890, Sec. 1040.

Right to relocate railroad. 36 L. R. A. 510-n.

168. Changing corporate name. Any railroad corporation may change its corporate name and adopt any other by resolution adopted by the stockholders owning a majority of all the stock thereof, at either a regular annual meeting or a special meeting called for that purpose, in the manner prescribed in sec. 1381 (158). Such changes shall not take effect until a copy of such resolution and of the record of its adoption, certified by the secretary under his hand and the corporate seal, shall be filed with the secretary of state. A like certified copy of such resolution shall be published for three successive weeks thereafter in any newspaper of general circulation published at the seat of government of the State. Every proceeding, act, liability, or thing done, undertaken, or encouraged by or on behalf of the corporation under its former name, shall be and continue of the same validity and obligation under such new name as if the name had remained unchanged.

Sec. 1386, R. L. 1910.

History. Dak. 2987; S. 1890, Sec. 1042.

Liability of consolidated company for debts of its predecessor. 23 L. R. A. 231-n.

169. To restore stream or highway. Every corporation constructing, owning, or using a railroad, shall restore every stream of water, watercourse, street, highway, plank road, toll or wagon road, turnpike, or canal, across, along, or upon which said railroad may be constructed, to its former state, or to such condition as that its usefulness shall not be materially impaired, and thereafter maintain the same in such condition against any effects in any manner produced by such railroad. When any lands shall be required in order to change any highway, street, turnpike, or plank road, toll or wagon road, the same may be condemned, taken and compensation made in the manner provided by law; and when taken shall

RAILROADS

become a part of such highway, street, turnpike, or plank road, toll or wagon road, to the same extent as, and by the same tenure, by which the adjacent parts thereof are held.

Sec. 1387, R. L. 1910.

History. Dak. 2988; S. 1890, Sec. 1043.

Liability of railroad company to abutting owner for damages for change of grade of highway necessary to carry it across tracks. 26 L. R. A. (18) 226-n. Power of municipal corporation to compel change of grade of railway in street. 70 L. R. A. 850-n.

Liability for cost of changing grade of street to prevent the crossing of railroad at grade. 26 L. R. A. 92-n.

170. Construction over highway. When it shall be necessary in the construction of a railroad to erect a bridge or culvert over any highway, street, turnpike, or plank road, toll or wagon road, it shall be sufficient to construct the same so as to give a clear passage way of twenty feet, or two passage ways of fourteen feet each.

Sec. 1388, R. L. 1910.

History. Dak. 2989; S. 1890, Sec. 1044.

Power to compel railroad to establish or maintain at its own expense overhead or underground crossing, as affected by the fact that the street or highway is opened subsequently to construction of railroad. 28 L. R. A. (ns) 298-n.

171. What property subject to mortgage. All rolling stock of any railroad corporation organized under the provisions of this article used and employed in connection with its railroad, and all fuel necessary to the operation of the same, are declared and shall be held to be fixtures; and all such property, and all additional rights of way, depot grounds, and other real property, acquired subsequently to the execution of any trust deed or mortgage which shall have been described or provided for therein, shall be subject to the lien thereof to the same extent as the property therein described, which the corporation owned at the time of its execution.

Sec. 1389, R. L. 1910.

History. Dak. 2990; S. 1890, Sec. 1045.

Effect of railroad mortgage on rails and other permanent fixtures annexed after execution. 66 L. R. A. 44-n.
35 Okla. 559, 134 Pac. 400.

172. Execution of conveyance or lease. Every conveyance or lease, deed or trust, mortgage or satisfaction thereof, made by any railroad corporation, of any franchises, real estate fixtures, or other real property, in pursuance of law, shall be executed and acknowledged in the manner in which conveyances of real estate by corporations are required to be, to entitle the same to be recorded, and shall be recorded in the office of the secretary of state, who shall endorse thereon his certificate thereof, specifying the day and hour of its reception, and the volume and page where recorded, which shall be evidence of such facts. Every such record of any instrument shall, from the time of reception, have the same effect as to any property in this State described therein, as the record of any similar instrument in the office of a register of deeds may have by law as to property in his county, and shall be notice of the rights and interests of the grantee, lessee, or mortgagee by such instrument to the same extent as if it were recorded in each and all of the several counties in which any property therein described may be situated.

Sec. 1390, R. L. 1910.

History. Dak. 2991; S. 1890, Sec. 1046.

MANNER OF INCORPORATION—DUTIES, ETC.

173. Vendor's lien on equipment. In any contract for the sale of railroad or street railway equipment or rolling stock, it shall be lawful to agree that the title to the property sold or contracted to be sold, although possession thereof may be delivered immediately or at any time or times subsequently, shall not vest in the purchaser until the purchase price shall be fully paid, or that the seller shall have and retain a lien thereon of the purchase money. And in any contract for the leasing or hiring of such property, it shall be lawful to stipulate for a conditional sale thereof at the termination of such contract, and that the rentals or amounts to be received under such contract may, as paid, be applied and treated as purchase money, and that the title to the property shall not vest in the lessee or bailee until the purchase money shall have been paid in full and until the terms of the contract shall have been fully performed, notwithstanding delivery to and possession by such lessee or bailee: Provided, that such contract shall not be valid as against any subsequent bona fide purchaser for value and without notice, unless the contract shall be evidenced by an instrument executed by the parties and duly acknowledged by the vendee or lessee or bailee, as the case may be, or duly proved before some person authorized by law to take acknowledgments of deeds and in the same manner as deeds are acknowledged or proved, and filed for record in the office of the secretary of state, or unless each locomotive engine or car so sold, leased or hired or contracted to be sold, leased or hired as aforesaid shall have the name of the vendor, lessor or bailor plainly marked on each side thereof, followed by the word "owner" or "lessor" or "bailor" as the case may be.

Sec. 1391, R. L. 1910.

History. S. 1893, Sec. 1055; effective March 14, 1893.

174. Manner of recording contract—fees. The contracts herein authorized shall be recorded by the secretary of state in a book of records to be kept for that purpose. And on payment of the full purchase money and the performance of the terms and conditions stipulated in any such contract a declaration in writing to that effect may be made by the vendor, or lessor or bailor or his or its assignee, which declaration may be made on the margin of the record of the contract duly attested, or it may be made by a separate instrument to be acknowledged by the vendor, lessor or bailor or his or its assignee, and recorded as aforesaid. And for such services the secretary of the state shall be entitled to a fee of two dollars for recording each of said contracts and each of said declarations and a fee of one dollar for noting such declaration on the margin of the record.

Sec. 1392, R. L. 1910.

History. S. 1893, Sec. 1056; effective August 14, 1893.

38 Okla. 559, 134 Pac. 400.

175. Directors may set aside money for payment of debts. The board of directors of any railroad corporation may annually or oftener, as may be deemed expedient, set apart and appropriate a sum of money not exceeding fifty per cent of its net earnings as

RAILROADS

resources for any one year, after paying the current expenses of their road and the interest on its outstanding indebtedness, in order to sink, redeem, pay off, cancel, or discharge the indebtedness of such corporation; and the said sums so set apart shall be annually applied to the payment and discharge of such debts of such corporation as shall be due, and to the purchase and redemption of the outstanding evidences of indebtedness of such corporation, as the board of directors thereof shall deem most for the interest of such corporation, and for no other purpose.

Sec. 1393, R. L. 1910.

History. Dak. 2992; S. 1890, Sec. 1047.

176. Defense of usury prohibited. No railroad corporation shall be allowed to make the defense of usury against the holder of any bond or other obligation for the payment of money issued by such corporation.

Sec. 1394, R. L. 1910.

History. Dak. 2993; S. 1890, Sec. 1048.

177. Directors may be classified. Any railroad corporation may, by a vote of a majority in amount of the stockholders present or represented at any annual meeting, classify its directors into three classes, each of which shall be composed, as nearly as may be, of one-third of the directors; the term of office of the first class to expire in one year, of the second in two years, and of the third in three years. At each annual election thereafter a number of directors shall be elected for three years equal to the number whose term of office shall then expire; all other vacancies to be filled in accordance with the by-laws.

Sec. 1395, R. L. 1910.

History. Dak. 2994; S. 1890, Sec. 1049.

178. Annual report to stockholders. Every railroad corporation shall make an annual report to the stockholders of its operations during the year ending on the thirty-first day of December, which report shall be verified by the affidavit of the secretary, treasurer, and superintendent of the corporation, and shall state:

First. The length of the road in operation; the length of single track; the length of double track; the weight of the rail per yard.

Second. The capital stock actually subscribed and paid up.

Third. The whole cost of the road, showing the amount expended for the right of way, bridging, grading, iron and buildings respectively, and for all other purposes incidental to the construction of such road.

Fourth. The amount and nature of its indebtedness, distinguishing the first, second and third mortgage bonds, and the unsecured indebtedness, and the amount due the corporation.

Fifth. The amount received for the transportation of passengers, property and mails, for interest, and from other sources respectively.

PRIVATE PROPERTY FOR PUBLIC USE—EMINENT DOMAIN

Sixth. The amount of freight, specifying the quantity in tons or other usual mode of measurement.

Seventh. The amount paid for the repairs of the road, buildings, engines and cars respectively; for fuel, taxes and interest, specifying the indebtedness on which the same is paid; for wages of employees; the aggregate amount paid for salaries of officers, and for any other purpose incidental to the business of transportation so as to give a complete statement of the entire annual expense of the corporation.

Eighth. The amount of loss to the corporation paid for loss and damage to freight and injury to person and property.

Ninth. The number and amount of dividends and when made, and in what manner such dividends have been paid.

Tenth. The amount appropriated to the sinking fund, and the manner in which the same has been applied, and the total amount then held by such sinking fund.

Eleventh. The number of persons killed or injured, the causes thereof, and whether passengers or persons employed by the corporation.

Twelfth. Whether any such accidents have arisen from carelessness or negligence of any person in the employ of the corporation, and whether such person is retained in the service of such corporation. The secretary of each railroad corporation shall mail to every stockholder thereof, whose postoffice address is known, a copy of its annual report, and shall file a certified copy thereof with the Corporation Commission on or before the first day of February in each year.

Sec. 1396, R. L. 1910.

History. Dak. 2995; S. 1890, Sec. 1050. Revision: In second paragraph, "and paid up" inserted following "subscribed," instead of "and the amount paid thereon." See Sec. 39, Art. IX, Const.

ARTICLE VI.

PRIVATE PROPERTY FOR PUBLIC USE—EMINENT DOMAIN.

- Sec.
179. Power to enter upon lands.
180. Extension of road into state.
181. Private property for public use—fee of land taken by common carriers for right of way.
182. Eminent domain—foreign corporation to domesticate to secure its benefits.
183. May purchase or take realty.
184. Taking by eminent domain—commissioners.
185. Same—owner entitled to compensation, when.
186. Same—review of report.
187. Same—appeal to Supreme Court.
188. Eminent domain in general.
189. Commissioners to act in all cases.
190. Settlement with incompetents.
191. Unknown owner.
192. Right of way on public lands—damages to occupants.
193. Changing line or grade.
194. Municipal authorities may convey—improvement districts—how highways occupied.
195. Certain State lands subject to right of eminent domain.
196. Condemnation procedure.
197. Compensation of appraisers.
198. Eminent domain extended to oil pipe lines same as railroads.
199. Same—as to water-power companies.
200. Same—as to municipalities.
201. Others who may exercise the right.
202. United States may condemn lands.
203. Jurisdiction.
204. Jurisdiction—when to vest.

RAILROADS

179. Power to enter upon lands. Every railroad corporation incorporated under this article and any railroad corporation authorized to construct, operate or maintain a railroad within this State, has power and is authorized to enter upon any land for the purpose of examining and surveying its railroad, and to take, hold and appropriate so much real estate as may be necessary for the location, construction and convenient use of its road, including all necessary grounds for buildings, stations, workshops, depots, machine-shops, switches, side-tracks, turn-tables, snow defences and water stations; all material for the construction of such road and its appurtenances, and the right of way over adjacent land sufficient to enable such corporation to construct and repair its road and the right to conduct water to its water stations, and to construct and maintain proper drains, and may obtain the right to such real estate by purchase or condemnation in the manner provided by the law.

Sec. 1397, R. L. 1910.

History. Dak. 2996; S. 1890, Sec. 1051.

As to right to appropriate, see Sec. 1400, notes.

This section confers power upon railroads to take, hold and appropriate real estate necessary for the location, construction and convenient use of their road. *Guthrie & Western Ry. Co. v. Faulkner*, 12 Okla. 532, 73 Pac. 290; *Same v. Rhoades*, 12 Okla. 565, 73 Pac. 1134.

Same—lands affected, but not actually taken—element of damages. Jury cannot consider any benefit accruing to owner in common with general public. *Id.*

Same—damages allowed for land actually taken, without regard to benefit or damage caused other lands. *Id.*

Instructions—fatally defective, where based on theory that there must be total destruction of property before recovery can be had. *Id.*

Damages for taking of property by railroad company are to be determined as of the date of appropriation. *B. E. & S. W. Ry. Co. v. Gist*, 18 Okla. 516, 90 Pac. 889.

26 L. R. A. (ms) 512.

180. Extension of road into State. Any railroad corporation chartered or organized under the laws of the United States or any state or territory, whose constructed railroad shall reach or intersect the boundary line of this State at any point, may extend its railroad into this State from any such point or points to any place or places within the State, and may build branches from any point on such extension. Before making such extension or building any such branch road, such corporation shall, by resolution of its directors, to be entered in the record of its proceedings, designate the route of such proposed extension or branch in the manner provided in sec. 1376 and file a copy of such record, certified by the president and secretary, in the office of the Corporation Commission and cause the same to be recorded as provided in said sec. 1376. Thereupon such corporation shall have all the rights and privileges to make such extension or build such branch, and receive such aid thereto as it would have had had it been authorized so to do by articles of association duly filed in accordance with the provisions of this article.

Sec. 1398, R. L. 1910.

History. Dak. 2997; S. 1890, Sec. 1052. Revision: "Corporation Commission" substituted for "Secretary of State" as place for filing certificate of extension.

Grant by Congress. Railways entitled to benefits of general railway laws of Territory. *U. S. ex rel. A. C. O. & G. Ry. Co.*, 3 Okla. 502, 41 Pac 729; 26 Kan. 699.

Right of foreign railroad companies in State. 21 L. R. A. 313-n.

PRIVATE PROPERTY FOR PUBLIC USE—EMINENT DOMAIN

181. Private property for public use—fee of land taken by common carriers for right of way. Private property shall not be taken or damaged for public use without just compensation. Such compensation, irrespective of any benefit from any improvements proposed, shall be ascertained by a board of commissioners of not less than three free-holders, in such manner as may be prescribed by law. The commissioners shall not be appointed by any judge or court without reasonable notice having been served upon all parties in interest. The commissioners shall be selected from the regular jury list of names prepared and made as the Legislature shall provide. Any party aggrieved shall have the right of appeal, without bond, and trial by jury in a court of record. Until the compensation shall be paid to the owner, or into court for the owner, the property shall not be disturbed, or the proprietary rights of the owner divested. When possession is taken of property condemned for any public use, the owner shall be entitled to the immediate receipt of the compensation awarded without prejudice to the right of either party to prosecute further proceedings for the judicial determination of the sufficiency or insufficiency of such compensation. The fee of land taken by common carriers for right of way, without the consent of the owner, shall remain in such owner subject only to the use for which it is taken. In all cases of condemnation of private property for public or private use, the determination of the character of the use shall be a judicial question.

Sec. 24 (32), Art. 2, Const.

Cited, etc. 29 Okla. 571, 580, 640, 647, 119 Pac. 127, 117; 33 Okla. 283, 124 Pac. 951; 38 Okla. 547, 134 Pac. 45; 42 Okla. 65, 140 Pac. 1190; 42 Okla. 343, 141 Pac. 266.

Electric power plant. 31 Okla. 710, 122 Pac. 1102.

182. Eminent domain—foreign corporation to domesticate to secure its benefits. No railroad, oil pipe line, telephone, telegraph, express, or car corporation organized under the laws of any other state, or of the United States, and doing business or proposing to do business in the State of Oklahoma, shall be allowed to exercise the right of eminent domain, unless it shall become a body corporate pursuant to the laws of this state; or unless such corporation shall comply with such limitations and restrictions as may be prescribed by the Corporation Commission, and file with the commission its written acceptance of such requirements and procure from the commission a certificate entitling it to exercise such right.

Sec. 1, Ch. 168, S. L. 1913, amending Sec. 31 (219), Art. 9, Const.

183. May purchase or take realty. Any railroad corporation may purchase and use real property for a price to be agreed upon with the owners thereof; or the damages to be paid by such corporation for any real property taken as aforesaid, when not agreed upon, shall be ascertained and determined as hereinafter provided.

Sec. 1399, R. L. 1910.

History. Dak. 2999; S. 1890, Sec. 1053. Revision: Reference made to subsequent provisions regarding condemnation, eliminating matter with reference to former procedure.

RAILROADS

Eminent domain—trespass. Where railroad company institutes proceedings to condemn land, and enters upon such land and constructs embankments, etc., and afterwards abandons same, it thereupon becomes trespasser ab initio, and land owner may maintain action for damages. *Enid & Anadarko Ry. Co. v. Wiley et al.*, 14 Okla. 310, 78 Pac. 96.

184. Taking by eminent domain—commissioners. If the owner of any real property or interest therein, over which any railroad corporation, incorporated under the laws of this State, may desire to locate its road, shall refuse to grant the right of way through and over his premises, the district judge of the county in which said real property may be situated, shall, upon the application or petition of either party, and after ten days' notice to the opposite party, either by personal service or by leaving a copy thereof at his usual place of residence with some member of his family over fifteen years of age, or, in case of his nonresidence in the State, by such publication in a newspaper as the judge may order, direct the sheriff of said county to summon three disinterested freeholders, to be selected by said judge from the regular jury list of names as commissioners, and who must not be interested in a like question. The commissioners shall be sworn to perform their duties impartially and justly; and they shall inspect said real property and consider the injury which said owner may sustain by reason of said railroad, and they shall assess the damages which said owner will sustain by such appropriation of his land, irrespective of any benefits from any improvement proposed; and they shall forthwith make report in writing to the clerk of the said court, setting forth the quantity, boundaries and value of the property taken, and amount of injury done to the property, either directly or indirectly, which they assess to the owner; which report must be filed and recorded by the clerk, and a certified copy thereof may be transmitted to the register of deeds of the county where the land lies, to be by him filed and recorded (without further acknowledgment or proof), in the same manner and with like force and effect as is provided for the record of deeds. And if said corporation shall, at any time before it enters upon said real property for the purpose of constructing said road, pay to said clerk for the use of said owner the sum so assessed and reported to him as aforesaid, it shall thereby be authorized to construct and maintain its road over and across said premises.

Sec. 1160, R. L. 1910.

History. Dak. 3090; S. 1890, Sec. 1054, as amended by L. 1907-8, p. 259, effective May 20, 1908. Revision: Amended section cut into four—Secs. 1400-1-2-3.

As to whether condemnation or commonlaw proceedings commenced first, see Sec. 4659, notes.

As to confessing judgment and awarding costs in eminent domain, see Sec. 5391, notes.

What included in award—danger by fire to buildings and crops, and danger to stock, not proper elements of damages in award. *St. L. etc. R. Co. v. Oliver*, 17 Okla. 589, 87 Pac. 122; 10 Ann. Cas. 718.

Same—such elements may be considered by jury in determining value of land taken. *Id.*

Same—award not proper to go to jury, on appeal from award. *Id.*

Appointment of commissioners—damages actually sustained to either real or personal property can be allowed. *Blincoe v. C. O. & W. Ry. Co.*, 16 Okla. 286, 83 Pac. 563; 4 L. R. A. Cas. 890-n; 8 Ann. Cas. 689.

Same—evidence—not error to reject where it tends to prove offers to purchase other property in neighborhood. *Id.*

PRIVATE PROPERTY FOR PUBLIC USE—EMINENT DOMAIN

Notice—signing—sufficiency. Former section construed. Statute must be strictly complied with. Notice must be signed by company, or its officers, as such. *Lacik et al. v. Ry. Co.*, 25 Okla. 282, 195 Pac. 655. Citing 10 Okla. 694, 65 Pac. 96.

Damages are not limited to land taken and injured, but such as owner actually sustains to real and personal property by reason of the taking. *Arkansas V. & W. Ry. Co. v. Witt*, 19 Okla. 262, 91 Pac. 897; 13 L. R. A. (ns) 237-n. Following 16 Okla. 286, 83 Pac. 903.

Who may institute proceedings. This provision and Sec. 1397 clearly give railroad right to appropriate land; and either company or land owner, upon failure to agree as to damages, may institute proceedings. *Blackwell, E. & S. Ry. Co. v. Bebout*, 19 Okla. 63, 91 Pac. 877; 14 Ann. Cas. 1145.

Time for demanding jury trial. When report of commissioners fails to describe land, and commissioners take no oath, time does not begin to run until such defects are remedied. *Id.*

Failure to institute until after appropriation does not give either party greater rights than before. *Id.*

Remedy not exclusive, but merely cumulative of common-law remedy. To proceed in one excludes right to proceed in other. *Id.* Citing 10 Kan. 344; 34 Kan. 158, 8 Pac. 138; 33 Kan. 752, 7 Pac. 568.

Consolidation—condemnation proceedings and action for damages should not be consolidated, as one is exclusive of right to maintain other. *Id.*

General rule. Provisions of code relative to assessment of damages are in harmony with settled principles of law governing exercise of power of eminent domain. *St. P. & Sioux City R. R. Co. v. Covell*, 2 Dak. 483, 11 N. W. 106. 43 Okla. 362, 143 Pac. 210; 28 Okla. 1, 119 Pac. 247; 31 Okla. 36, 119 Pac. 414.

185. Same—owner entitled to compensation, when. When possession is taken by property condemned, as provided herein, the owner shall be entitled to the immediate receipt of the compensation awarded, without prejudice to the right of either party to prosecute further proceedings for the judicial determination of the sufficiency or insufficiency of said compensation.

Sec. 1401, R. L. 1910.

History. Dak. 3000, S. 1890, Sec. 1054, as amended by L. 1907-8, p. 259; effective May 20, 1908.

186. Same—review of report. The report of the commissioners may be reviewed by the district court, on written exceptions filed by either party, in the clerk's office, within sixty days after the filing of such report; and the court shall make such order therein as right and justice may require, either by confirmation, rejection or by ordering a new appraisalment on good cause shown; or either party may, within thirty days after the filing of such report, file with the clerk a written demand for a trial by jury; in which case the amount of damages shall be assessed by a jury, and the trial shall be conducted and judgment entered in the same manner as civil actions in the district court. If the party demanding such trial does not recover a verdict more favorable to him than the assessment of the commissioners, all costs in the district court may be taxed against him.

Sec. 1402, R. L. 1910.

History. Dak. 3000; S. 1890, Sec. 1054, as amended by L. 1907-8, p. 259; effective May 20, 1908.

187. Same—appeal to supreme court. Either party aggrieved may appeal from the decision of the district court to the supreme court; but such review or appeal shall not delay the prosecution of the work on such railroad over the premises in question, if such corporation shall first have paid to the owner of said real property, or deposited with the said clerk for said owner, the amount

RAILROADS

so assessed by said commissioners or district court; and in no case shall said corporation be liable for the costs on such review or appeal, unless the owner of such real property shall be adjudged entitled, upon either review or appeal, to a greater amount of damages than was awarded by said commissioners. The corporation shall in all cases pay the costs and expenses of the first assessment. And in case of review or appeal the final decision may be transmitted by the clerk of the proper court, duly certified, to the proper register of deeds, to be by him filed and recorded as hereinbefore provided for the recording of the report, and with like effect. The fee of land over which a mere easement is taken, without the consent of the owner, shall remain in such owner subject only to the use for which it was taken.

Sec. 1403, R. L. 1910.

History. Dak. 3000; S. 1890, Sec. 1054, as amended by L. 1907-8, p. 260; effective May 20, 1908.

188. Eminent domain in general. The provisions of this article with reference to eminent domain shall apply to all corporations having the right of eminent domain, and all such corporations shall have the right, under the provisions of this article, to acquire right of way over, along or across the property or right of way of any other such corporation, not inconsistent with the purposes for which such property was taken or acquired. In all cases of condemnation of property for either public or private use, the determination of the character of the use shall be a judicial question; and the procedure shall be as provided herein: Provided, that in case any corporation or municipality authorized to exercise the right of eminent domain shall have taken and occupied, for purposes for which it might have resorted to condemnation proceedings, as provided in this article, any land, without having purchased or condemned the same, the damage thereby inflicted upon the owner of such land shall be determined in the manner provided in this article for condemnation proceedings.

Sec. 1404, R. L. 1910.

History. L. 1907-8, p. 261; effective May 20, 1908. Revision: Redrafted, and provisions added to permit corporations to acquire right of way in the right of way of other corporations, and to permit ascertainment of damages subsequent to taking of land.

189. Commissioners to act in all cases. Freeholders so appointed shall be the commissioners to assess all the damages to the owners of real property in said county or subdivision, and said corporation may, at any time after their appointment, upon the refusal of any owner or guardian of any owner of lands in said county or subdivision to grant the right of way as aforesaid, by giving said owner or guardian ten days' notice thereof in the manner required on the original appointment of commissioners, have the damages assessed in the manner hereinbefore prescribed. In case of the death, absence, or refusal or neglect of any of said freeholders to act as commissioners as aforesaid, the sheriff shall, upon the selection of the district judge, summon other freeholders to complete the

PRIVATE PROPERTY FOR PUBLIC USE—EMINENT DOMAIN

panel, and said commissioners shall receive three dollars per day each for their services, and the same shall be taxed in the bill of costs.

Sec. 1405, R. L. 1910.

History. Dak. 3001; S. 1890, Sec. 1055.

190. Settlement with incompetents. Whenever any railroad corporation shall take any real property as aforesaid, of a minor, any person insane or otherwise incompetent, or of any married woman whose husband is under guardianship, the guardian of such minor, insane or incompetent person, or such married woman with the guardian of her husband, may agree and settle with said corporation for all damages or claims by reason of the taking of such real property, and may give valid releases and discharges therefor upon the approval thereof by the judge of the county court.

Sec. 1406, R. L. 1910.

History. Dak. 3002; S. 1890, Sec. 1056.

191. Unknown owner. If upon the location of said railroad it shall be found to run through the real property of any nonresident owner who is unknown to the corporation, or who has not been by it informed thereof, and has neither granted nor refused to grant the right of way through and over his said premises, the said corporation may give four weeks' notice to such owner, if known, and if not known, by a description of such real property, by publication four consecutive weeks in some newspaper published in the county or subdivision where such real property may lie, if there be any, and, if not, in one nearest thereto on the line of their said road, that said railroad has been located through and over his lands; and if said owner do not, within thirty days thereafter, apply to the district judge to have the damages assessed, in the mode prescribed in this article, said corporation may proceed to have the damages assessed as hereinbefore provided, subject to the same right of review and appeal, as in case of resident owners; and upon payment of damages assessed to the clerk of the district court, the corporation shall acquire all the rights and privileges mentioned in this article.

Sec. 1407, R. L. 1910.

History. Dak. 3003; S. 1890, Sec. 1057.

192. Right of way on public lands—damages to occupants. Any railroad corporation is authorized to pass over, occupy and enjoy all the public lands, to the extent and in the manner prescribed by the act of Congress approved March 3, 1875; Provided, that the damages accruing to any occupant or possessory claimant or other person who may reside on or have improvements upon said public land, shall be determined and paid by said railroad corporation as provided in this article for owners of private lands.

Sec. 1408, R. L. 1910.

History. Dak. 3004; S. 1890, Sec. 1058.

193. Changing line or grade. Whenever any railroad corporation shall find it necessary, for the purpose of avoiding annoyance to public travel, or dangerous or difficult curves or grades, or

RAILROADS

unsafe or unsubstantial grounds or foundations, or for other reasonable causes, to change the grade or location of any portion of its road, such railroad corporation shall be and is hereby authorized to make such changes of grade and location, not departing from its general route. And for the purpose of making any such change in the location and grades of any roads as aforesaid, such corporation shall have all the rights, powers and privileges to enter upon and appropriate such real property, and make surveys necessary to effect such changes and grades, upon the same terms, and subject to the same obligations, rules and regulations as are prescribed by law; and shall also be liable in damages, when any may have been caused by such change to the owner of real property upon which such road was heretofore constructed, to be ascertained and paid, or deposited as herein provided; but no damages shall be allowed unless claimed within ninety days after actual notice in writing of such intended change shall be given to such owner residing on the premises, or, if nonresident, notice by such publication in some newspaper in general circulation, as the district judge may order.

Sec. 1409, R. L. 1910.

History. Dak. 3005; S. 1890, Sec. 1059.

Power of municipal corporation to compel change of grade of railway in street. 70 L. R. A. 850-n.

194. Municipal authorities may convey—improvement districts—how highways occupied. If it shall be necessary, in the location of any part of any railroad, to occupy any road, street, alley or public way or ground of any kind, or any part thereof, it shall be competent for the municipal, or other corporation, or public officer, or public authorities owning or having charge thereof, and the railroad corporation, to agree upon the manner, and upon the terms and conditions upon which the same may be used or occupied; and if said parties shall be unable to agree thereon, and it shall be necessary, in the judgment of the directors of such railroad corporation, to use or occupy such road, street, alley, or other public way or ground, such corporation may appropriate so much of the same as may be necessary for the purpose of such road, in the same manner and upon the same terms as are provided in this chapter for the appropriation of the property of individuals. Provided, however, that if any railroad shall be so located as to occupy any road or public way, constructed by any road improvement district organized under the laws of this State, for a greater distance than one-fourth ($\frac{1}{4}$) of one (1) mile, before any such railroad shall acquire the right to enter upon, use, occupy and maintain its railroad along such, and upon such public highway, it shall file in the office of the county clerk, in the county wherein such road improvement district is located, a statement showing the total length of the line proposed to be located along, and upon, such public highway, the amount of compensation they propose to pay to such road improvement district for the use of such public highway, and the time and manner in which such payment is to be made. Immediately upon the filing of such proposal, the county clerk shall notify the

STATE LANDS SUBJECT TO RIGHT OF EMINENT DOMAIN

county commissioners and shall cause same to be published in one issue, at the expense of the railroad company, of some newspaper of general circulation within said road improvement district. The county commissioners shall meet within ten days and shall immediately order an election to be held, within such road improvement district, for the purpose of submitting, to the qualified electors within such road improvement district, the question of accepting or rejecting the proposal of such railroad company. They shall pass all orders and resolution necessary for the holding of such elections and shall canvass the returns thereof, and declare the result, and if three-fifths of all the votes cast on such question shall be in favor of the acceptance of the proposal of said railroad company, the same shall be accepted and the board of county commissioners shall have power to execute all contracts and do all things necessary to secure to said road improvement district the performance of the conditions of such proposal of said railroad company.

Ch. 71, S. L. 1910-11, amending Sec. 1410, R. L. 1910.

History. Dak. 3006; S. 1890, Sec. 1060.

See also 787, notes, R. L. 1910.

Land does not revert to abutting property owners, where grant has been made under this section. *Tonkawa Milling Co. v. Town of Tonkawa*, 15 Okla. 672, 83 Pac. 915.

Authority exists under this section to grant railways use of streets. *McKay v. City of Enid et al.*, 26 Okla. 275, 109 Pac. 520, Citing 20 Okla. 583, 95 Pac. 224, 100 Pac. 1110; 18 Okla. 516, 90 Pac. 889.

Same—city not liable for injuries resulting to private rights. *Id.* Citing 30 Kan. 348, 1 Pac. 118.

Same—licensee must exercise rights in a reasonable manner and if it creates a nuisance, or any individual suffers injury, action to restrain and to recover damages may be maintained. *Id.* Citing 40 Kan. 301, 19 Pac. 661, 2 L. R. A. 59.

195. Certain state lands subject to right of eminent domain.

The lands set apart for the use and benefit of the State of Oklahoma for public schools, for public buildings and educational institutions, either by congressional enactment or executive reservation, are hereby declared to be subject to the right of eminent domain in behalf of any of the public enterprises now authorized by law to condemn private property for mills, sewers, railroads, side-tracks, station-grounds and other municipal or corporate public uses, and all the laws of this State with reference to the taking of private property for public use are hereby made applicable to the said lands.

Sec. 3183, R. L. 1910.

History. L. 1895, p. 122; effective March 8, 1895.

Cited and applied. *Cunningham v. Ponca City*, 27 Okla. 858, 113 Pac. 919.

Right to condemn property previously condemned or purchased for public use, but which is not actually so used. 24 L. R. A. (ns) 383-n.

196. Condemnation procedure.

Before any public corporation, municipality or other entity or person authorized to exercise the right of eminent domain under existing law, shall have the right to condemn or take any part of such lands, a plat of the grounds proposed to be taken, showing the part of the particular subdivision, shall be prepared and filed with the governor of the State, together with a sworn statement of the engineer or superintendent in charge of such public work, that the taking of such lands is necessary to the exercise of the powers of such municipality or corporation;

RAILROADS

and it shall be the duty of the governor to appoint three disinterested persons, resident householders of the county in which such land is located, who shall first take an oath to fairly and impartially appraise the value of the ground so taken, and the damage to the remaining parts of such subdivision by the taking thereof, and the said appraisers shall notify the governor and the officers of such corporation of the time and place when they will proceed to appraise such damage; and at such time and place, upon actual view of the premises, the said appraisers shall meet and appraise the damage, in writing, and return one copy thereof under their signatures to the governor of the State, and one copy to the principal officer of such corporation or municipality in charge of such construction; and if either party is aggrieved they may, within ten days, appeal to the district court of the county where such land is located, in the same manner that appeals are taken from judgment of justices of the peace, where the amount of such damage shall be tried by a jury, as other causes are tried. In case no appeal is taken from the award of such appraisers, such corporation or municipality shall have the right to occupy such grounds by the paying into the state treasury the amount of such award. In case either party appeals, such corporation or municipality shall have the right to occupy such grounds upon giving bond in treble the amount of the award, with sureties to be approved by the clerk of the district court where such appeal is pending, to the effect that the corporation or municipality will pay said award if such appeal be dismissed, or shall pay any judgment finally rendered in said action if the same shall be tried.

Sec. 3184, R. L. 1919.

History. L. 1895, p. 122; effective March 8, 1895.

Right must be exercised upon just compensation for property taken by due process of law and according to method provided for in statutes. *So. Kansas Ry. Co. et al. v. Oklahoma City*, 12 Okla. 82, 69 Pac. 1959.

Same—appropriation for public use—constituted, where party is compelled to re-arrange his property to facilitate public need. *Id.*

Same—condition precedent. Property must be condemned, appraised and just compensation paid for it. *Id.*

Same—owner entitled to just compensation. *Id.*

Notice. Law providing for condemnation of property must provide for proper notice, otherwise void. *Stillwater Board of Education v. Aldredge et al.*, 13 Okla. 295, 73 Pac. 1104. *Citing 19 Okla. 691, 70 Pac. 695.*

Judicial power over the right of eminent domain. 22 L. R. A. (ns) 1-n.

Accepting damages as waiver of right to appeal. 29 L. R. A. (ns) 21-n.

Effect of appeal in condemnation proceedings. 2 L. R. A. (ns) 313-n.

Right of condemning party to dismiss condemnation proceedings after award or verdict and before confirmation or judgment. 28 L. R. A. (ns) 91-n.

When title passes in eminent domain proceedings. 16 L. R. A. (ns) 537-n. 33 Okla. 711, 127 Pac. 799.

197. Compensation of appraisers. The said appraisers shall receive as their compensation for their services the sum of four dollars each per day for the time actually engaged in making such appraisement, to be verified by them under their oath, and which shall be paid, in addition to the award, by the company or corporation requiring their services.

Sec. 3185, R. L. 1919.

History. L. 1895, p. 123; effective March 8, 1895.

STATE LANDS SUBJECT TO RIGHT OF EMINENT DOMAIN

198. Eminent domain extended to oil pipe lines same as railroads. Any oil pipe line company organized under the laws of this State shall have power to exercise the right of eminent domain in like manner as railroad companies for the purpose of securing rights of way and sites for pumping stations, storage tanks and depots.

Sec. 3186, R. L. 1910.

History. L. 1907-8, p. 261; effective May 20, 1908.

Consequential damages—this act construed and held not to provide for consequential damages for public improvements by municipality. *Edwards v. Thrash et al.*, 26 Okla. 472, 109 Pac. 832; 138 Am. St. 975. Followed in *City of McAlester v. McMurray*, 26 Okla. 517, 109 Pac. 838.

199. Same—as to water-power companies. Any water-power company organized under the laws of this State shall have power to exercise the right of eminent domain in like manner as railroad companies for the purpose of securing sites for the erection of water-power plants, together with the necessary dams and any non-navigable stream, and sites for the storage of water and of securing rights of way for the necessary flumes and conduits for the purpose of conducting water for public or private consumption and generating power, and for the purpose of securing rights of way for poles, wire and cables for transferring and transmitting electricity generated by water.

Sec. 3187, R. L. 1910.

History. L. 1907-8, p. 261; effective May 20, 1908.

Taking property for water-supply. 58 L. R. A. 241-n.

Furnishing water and water power to the public for manufacturing purposes as a public purpose. 21 L. R. A. (ns) 410-n.

31 Okla. 710, 122 Pac. 1102.

200. Same—as to municipalities. Any county, city, town, township, school district or board of education, or any board or official having charge of cemeteries created and existing under the laws of the State, shall have power to condemn lands in like manner as railroad companies, for highways, rights of way, building sites, cemeteries, public parks and other public purposes.

Sec. 3188, R. L. 1910.

History. L. 1907-8, p. 261; effective May 20, 1908. Revision: Towns included, as there appears to be no reason for their omission.

City is empowered to condemn lands for its sewerage systems, paying full compensation therefor. *Cunningham v. Ponca City*, 27 Okla. 858, 113 Pac. 919.

201. Others who may exercise the right. Any private person, firm or corporation shall have power to exercise the right of eminent domain in like manner as railroad companies for private ways of necessity or for agriculture, mining and sanitary purposes.

Sec. 3189, R. L. 1910.

History. L. 1907-8, p. 261; effective May 20, 1908.

202. United States may condemn lands. The consent of the State of Oklahoma is hereby given, in accordance with the seventeenth clause, eighth section, of the first article of the constitution of the United States, to the acquisition by the United States, by purchase, condemnation or otherwise, of any land in this State required for sites for custom houses, postoffices, arsenals, forts, magazines, dockyards, military reserves, forest reserves, game preserves and national parks or other needful public buildings whatever, or for any other purposes for the government.

Sec. 3190, R. L. 1910.

History. L. 1907-8, p. 294; effective April 6, 1908.

RAILROADS

203. Jurisdiction. Exclusive jurisdiction in and over any lands so acquired by the United States shall be, and the same is hereby ceded to the United States for all purposes except the service upon such sites of all civil and criminal process of the courts of this State; but the jurisdiction so ceded shall continue no longer than the said United States shall own such lands.

Sec. 3191, R. L. 1910.

History. L. 1907-8, p. 294; effective April 6, 1908.

204. Jurisdiction—when to vest. The jurisdiction ceded shall not vest until the United States shall have acquired the title of said lands by purchase, condemnation or otherwise; and so long as the said lands shall remain the property of the United States, when acquired as aforesaid, and no longer, the same shall be and continue exempt and exonerated from all state, county and municipal taxation, assessment or other charges which may be levied or imposed under the authority of this State.

Sec. 3192, R. L. 1910.

History. L. 1907-8, p. 294; effective April 6, 1908.

ARTICLE VII.

DUTIES GOVERNING OPERATION, ETC.

- Sec.
205. Rules for running trains.
206. Penalty for violation.
207. Demurrage.
208. Same—notice.
209. Must receive and forward freight—rate of speed—penalty.
210. Must give notice of arrival of freight.
211. Disposition of freight and cars.
212. Shippers given time for loading cars—demurrage.
213. Notice of arrival—free time.
214. Warehouse charges.
215. Action to enforce penalty—attorney's fee.
216. Scope of law.
217. Agent's neglect of duty.
218. Injuries to persons.
219. Fare paid imposes duty on company.
220. Changing highway.
221. Same—to provide temporary way.
222. Bridge repairs.
223. Signs at crossings.
224. Same—neglect.
225. Bells and whistles.
226. Failure to ring bell of locomotive.
227. Causeway.
228. Railroads to construct crossings.
229. Same—powers of City Council.
230. Kind of headlight required.
231. Penalty.
232. Railroads to fence their roads.
233. Lawful fence defined.
234. Rights of adjacent land owners.
235. Failure to fence—penalty.
236. Stock killed—posting notices—records.
237. Railroads must fence right of way with hog wire, when.
238. Notice to railroads.
239. Owner of adjoining land may construct if railroad refuses—penalty.
240. Right to deal in passage tickets.
241. Purchasers may sell tickets.
242. Company may lease or sell.
243. Transportation companies must maintain repair shops in State.
244. Same.
245. Eminent domain—acceptance of terms of act.
246. Forfeiture of charter and other penalty.
247. Railroad shops—removal—permit.
248. Corporation Commission—jurisdiction.
249. Hearing before Corporation Commission.
250. Proof burden upon applicant.
251. Home location—time extended for construction.

DUTIES GOVERNING OPERATION, ETC.

- 252. Same—Foreign corporations in the Territory.
- 253. Filing map of route.
- 254. Domestication of foreign corporations by resolution.
- 255. Foreign corporations—increase of capital stock.
- 256. Domestic corporations—increase of capital stock.
- 257. Must begin work in two years.
- 258. Cancellation of charter, when.
- 259. Name of town to be name of station.
- 260. Penalty for violation.
- 261. Railroad must pass through county seat.
- 262. Intrastate passenger trains—county seat stops.
- 263. Same—penalty.
- 264. Hospitals for employes—Corporation Commission to regulate.
- 265. Regulations—removal of injured from State.
- 266. Investigations—protection of complainant.

205. Rules for running trains. Every such railroad corporation shall start and run its cars, for the transportation of persons or property, at regular times to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and property as shall within a reasonable time previous thereto offer, or be offered, for transportation at the place of starting, or at the junction of other railroads, and at siding or stopping places established for receiving and discharging way passengers and freight, and shall take, transport, and discharge passengers and property at, from, and to such places, on the due payment of tolls, freight, or fare therefor.

Sec. 1411, R. L. 1910.

History. Dak. 3007; S. 1890, Sec. 1061.

Accommodation to be furnished is for transportation alone, and does not require railroads to provide depots or erect platforms or keep stations agents. Section construed. Chaddick et al. v. Lindsay, 5 Okla. 616, 49 Pac. 940. Citing 104 N. Y. 58.
148 Pac. 166.

206. Penalty for violation. In case of the refusal by such corporation or its agents to take or transport any passenger or property as provided in the preceding section; or in case of the neglect or refusal of such corporation or its agents to discharge or deliver passengers or property at the regularly appointed place, under the laws which regulate common carriers, such corporation shall pay to the party aggrieved all damages which shall be sustained thereby with costs of action.

Sec. 1412, R. L. 1910.

History. Dak. 3008; S. 1890, Sec. 1062.

Construed as to requirements to build depots. See Sec. 1411.
37 Okla. 340, 344, 132 Pac. 337.

207. Demurrage. It shall be the duty of every railroad company doing business in this State to furnish suitable cars to any and all persons without discrimination, who may apply therefor in good faith for the transportation of any and all kinds of freight, and to receive and transport such freight with all reasonable dispatch, and to provide and keep suitable facilities for the receiving and handling of the same at any station or switch on the line of its road, and also to receive and transport in like manner the empty or loaded cars freighted by any connecting road to be delivered at any station or stations on the line of its road, to be loaded or discharged or reloaded and returned to the road so connecting, and for compensation it shall not demand or receive any greater sum than is

RAILROADS

accepted by it from any other connecting road for a like service. When cars are applied for under this section, if they are not furnished, the railroad company so failing to furnish them shall forfeit to the party or parties so applying for them the sum of one dollar per day for each car failed to be furnished, to be recovered in any court of competent jurisdiction, and all actual damages that such applicant may sustain.

Sec. 1413, R. L. 1910.

History. L. 1905, p. 143; effective March 15, 1905.

Freight—destruction—liability. Where freight is loaded into a car and afterward destroyed by fire, plaintiff must show that he notified company that car was ready for shipment before liability of company attaches. *Ry. Co. v. Cox*, 25 Okla. 774, 108 Pac. 380.

Same—company's liability is that of warehouseman and liable for failure to exercise ordinary care. *Id.*

208. Same—notice. It shall be the duty of every railroad company, operating a line of road wholly or in part within this State for the transportation of freight, upon the verbal or written application of any shipper to its station agent or other agent in charge of transportation of freight for a car or cars to be loaded with freight other than perishable freight or live stock, stating the character of the freight and its final destination, to furnish said car or cars within four days from seven o'clock a. m. of the day following such application; or, when such application specifies a future day when said car or cars are required, giving not less than four days' notice thereof, computing from seven o'clock a. m. of the day following such application, it shall be the duty of said company to furnish said car or cars on the day specified in said application. For failure to comply with this section said company shall forfeit and pay to the shipper applying for said car or cars the sum of one dollar per car per day or fraction of a day's delay after free time, together with all actual damages said applicant may sustain thereby; Provided, that if in case of fire, washouts, strikes, lockouts, or other unavoidable casualties such railroad company shall not be able to furnish such cars within such time, then and in that event such time of demurrage shall not begin to run until such obstacles and hindrances are removed.

Sec. 1414, R. L. 1910.

History. L. 1905, p. 144; effective March 15, 1905.

Construed. *C. R. I. & P. Ry. Co. v. Beatty*, 27 Okla. 811, 116 Pac. 171. Duty to furnish cars to shippers. 13 L. R. A. 225-n; 8 L. R. A. (ns) 198-n. Exclusiveness of statutory remedy for failure to furnish cars. 26 L. R. A. (ns) 851-n.

Duty as affected by strike. 36 L. R. A. 623-n.

12 Okla. 528, 141 Pac. 142; 31 Okla. 321, 118 Pac. 367; 126 Pac. 736, 42 L. R. A. (ns) 984-n; 231 U. S. 753.

209. Must receive and forward freight—rate of speed—penalty. When such freight in car loads or less is tendered to said station agent and correct shipping instructions given, it shall be the duty of said company immediately to receive the same for shipment and issue bills of lading therefor, and when such shipments have been so received they must be carried forward at the rate of not less than sixty miles per day or twenty-four hours, computing from seven o'clock a. m. of the day following receipt of the same, except

DUTIES GOVERNING OPERATION, ETC.

that if, in case of fires, wrecks, destruction of bridges or tracks, or washouts, such company shall not be able to transport said cars at the rate of sixty miles per day, then and in that event such company shall be released from such provision during the time that such unavoidable obstacles exist; and for failure to receive and transport such shipments within the time herein prescribed, said company shall forfeit and pay to the consignee the sum of one dollar per car per day or fraction of a day on all car load freight and one cent per hundred pounds per day, or fraction thereof on freight in less than car load lots, with minimum charge of five cents for any one package, together with all actual damages the consignor or consignee may sustain thereby; Provided, that in computing the time of freight in transit, there shall be allowed twenty-four hours at each point where transferring from one railroad to another is involved.

Sec. 1415, R. L. 1910.

History. L. 1905, p. 145; effective March 15, 1905.

210. Must give notice of arrival of freight. Such railroad companies shall within twenty-four hours after arrival of shipments give written notice by mail, or otherwise, to consignees of the arrival of the shipments together with the amount of freight charges thereon, and when goods or freight in car load lots arrive, such notice shall contain the number and initials of the car or cars, and, if transferred in transit, the number and the initials of the car or cars in which originally shipped. Any railroad company failing to give said notice shall forfeit and pay to the consignee or other party whose interest is affected, the sum of one dollar per car per day or fraction of a day's delay on all car load shipments, and one cent per hundred pounds per day or fraction thereof on freight in less than car load lots, with minimum charge of five cents for any one package after the expiration of said twenty-four hours, together with all actual damages sustained thereby.

Sec. 1416, R. L. 1910.

History. L. 1905, p. 146; effective March 15, 1905.

Necessity of notice of arrival of goods to reduce liability of carrier to that of warehouseman. 18 L. R. A. (ns) 427-n.

211. Disposition of freight and cars. Railroad companies shall deliver freight at their depots and warehouses, or, in case of shipment for track delivery, shall place loaded cars at an accessible place for unloading within twenty-four hours after arrival, computing from seven o'clock a. m., of the day following the arrival of the same, except that car load shipments for track delivery at local stations having not more than one team track shall be placed at an accessible point for unloading by the conductor of the train on which car arrives. The railroad company shall forfeit and pay to the shipper or consignee one dollar per car per day for each day or fraction such delivery is delayed and all actual damages sustained thereby: Provided, that the delivery of cars to private tracks shall be considered to have been made either when such cars have been placed on the tracks designated, or if such tracks shall be full of unloaded or unreleased empty cars when the road offering

RAILROADS

the cars would have made delivery had the condition of such tracks permitted; and Provided, further, that all cars for unloading shall be considered placed when they are held awaiting order for consignors or consignees.

Sec. 1417, R. L. 1910.

History. L. 1905, p. 146; effective March 1905.

212. Shippers given time for loading cars—demurrage.

Shippers or consignees on whoses order a car or cars of less than sixty thousand pounds capacity have been placed for loading or unloading shall have forty-eight hours for loading or unloading such cars, and seventy-two hours for loading or unloading those of sixty thousand pounds or greater capacity, computing time from seven o'clock a. m., of the day after such car or cars have been placed subject to such order; and thereafter a demurrage charge of not more than one dollar per car per day or fraction of a day, may be assessed and collected on all such cars respectively as have not been tendered to the railroad company, with shipping instructions for loaded cars, within said respective periods of forty-eight hours and seventy-two hours of free time: Provided, however, that should such shipper or consignee fail to begin loading or unloading within forty-eight hours after the expiration of free time the railroad company may consider the empty car or cars released, and may assess and collect on every car, loaded or empty, one dollar covering the demurrage then due; and nothing herein shall be construed as meaning that demurrage is a lien on the freight: Provided, that when by reason of delay or irregularities on the part of the railroad company in filling orders for cars, or in the transportation or delivery of freight, cars are bunched in excess of the capacity of the shipper to load, as indicated in his application, or of the consignee to unload, such shipper or consignee shall have separate and distinct periods of free time in which to load or unload, as the case may be, the car or cars specified in each separate application, or in each bill of lading or way-bill of different dates.

Sec. 1418, R. L. 1910.

History. L. 1905, p. 147; effective March 15, 1905.

Charge for detention of cars by consignee. 22 L. R. A. 530-n.

Delay in unloading caused by strike. 35 L. R. A. 630-n; 5 L. R. A. (ns) 426-n.

Lien for demurrage. 3 L. R. A. (ns) 327-n.

Power of state as to demurrage charges on interstate shipment. 30 L. R. A. (ns) 137-n.

213. Notice of arrival—free time. When the consignee or his agent is personally served with notice of the arrival of freight at or before five o'clock p. m. of any day, free time shall begin at seven o'clock a. m. of the day after such notice has been given. When such notice is given by mail twenty-four hours additional free time shall be allowed: Provided, however, that when such notice is given by mail the consignee shall make oath that neither he, his agent, or employees have received such notice, then he shall not be deemed to have received legal notice by reason of having posted said notice by mail; Provided, further, that when consignors ship

DUTIES GOVERNING OPERATION, ETC.

goods consigned to order, by (and) express in their bills of lading or shipping directions the name of the person at destination whom to notify, it shall be the duty of the railroad company to give such notice to such party in the same manner as if shipment had been made directly to him.

Sec. 1419, R. L. 1910.

History. L. 1905, p. 148; effective March 15, 1905.

For construction of interstate commerce act, see notes, Const. Art. 9, Sec. 18 (Bunn's Ed. Sec. 222).

This section and Sec. 1420 held inoperative by virtue of the exercise of the powers of the Corporation Commission under Sec. 222. St. L. etc. R. Co. v. State et al., 26 Okla. 62, 107 Pac. 929.

Same. Extended in force by virtue of Sec. 21 of the enabling act and Sec. 2 of Schedule to constitution. Id.

214. Warehouse charges. All package freight unloaded by railroad companies in their depots or warehouses, and all freight which, in order to release cars, is unloaded in the yard space of a railroad company and not removed by the owner therefrom within forty-eight hours, computing from seven o'clock a. m. of the day following legal notice of arrival, may be subject to the charge of storage for each day, or fraction of a day, it may remain in custody of the railroad company as follows: In less than car loads, not more than one cent per hundred pounds per day, or fraction thereof. In car load lots, not more than ten cents per ton of two thousand pounds per day, or fraction thereof, but not exceeding one dollar per car per day, or fraction of a day: Provided, that in no case shall the amount so collected for storage of a less than car load shipment exceed the amount authorized to be charged as storage or demurrage on a car load of similar freight for the same length of time when not unloaded from car as hereinbefore provided.

Sec. 1420, R. L. 1910.

History. L. 1905, p. 118; effective March 15, 1905.

See Sec. 1419, notes.

215. Action to enforce penalty—attorney's fee. Suit to collect any of the damages, penalties, forfeitures, demurrage or storage charges provided for herein, may be brought in any court of this State having jurisdiction of the subject matter and parties; and if the plaintiff therein recover judgment, such plaintiff shall also recover a reasonable attorney's fee for bringing such suit, to be taxed on motion and paid as other costs by defendant in such suit.

Sec. 1421, R. L. 1910.

History. L. 1905, p. 149; effective March 15, 1905. Revision: Minor changes in language.

Interstate commerce—jurisdiction. Interstate Commerce Commission, prior to amendment of act under which it operated on August 28, 1906 (Act Cong. Feb. 4, 1887, c. 104, 24 St. 379, as amended by Act Cong. 1906, c. 3591, 34 St. 584), had no jurisdiction to fix or adjust charges or rates on shipments, the carriage of which was wholly within a territory. Ft. Smith & W. R. Co. v. Chandler Cotton Oil Co., 25 Okla. 82, 106 Pac. 10.

216. Scope of law. This article is not intended to repeal, modify, or affect any law concerning the shipment, transportation or delivery of any kind of freight without unnecessary delay, or within a reasonable time, or any other law, concerning common

RAILROADS

carriers now in force unless in direct conflict herewith, and this article is hereby declared to be supplemental to such law.

Sec. 1422, R. L. 1910.

History. L. 1905, p. 149; effective March 15, 1905. Revision: Provision declaring all railroad rules and regulations in conflict with the law void stricken as unnecessary.

CORPORATION COMMISSION'S RULES GOVERNING ASSESSMENT OF DEMURRAGE AND STORAGE CHARGES, HANDLING AND MOVEMENT OF FREIGHT, FURNISHING OF EMPTY CARS, RECONSIGNMENT OF FREIGHT.

ORDER No. 167—DEMURRAGE AND STORAGE RULES.

1. Cars not subject to rules.

(a) Cars held for or by consignors or consignees for loading, unloading, forwarding directions, or for any other purpose, are subject to these demurrage rules, except as follows:

(b) Cars loaded with company material consigned to the company on whose lines cars are held.

(c) Cars loaded with live stock.

(d) Private cars on tracks of the owner or on privately owned tracks of the consignee or consignor, when used for the transportation of commodities which the owners of the cars produce or in which they deal.

(e) Cars with through consignments not stopped in transit or held for orders of consignor or consignee.

(f) Empty cars held by railroads for prospective loading, or empty cars when not being used and are stored upon sidetracks. Private cars are not subject to demurrage regulations except when they are placed by the carrier for loading or unloading.

(g) Cars to be loaded with coal.

2. Free time allowed.

Section 1.

(a) Forty-eight hours' free time will be allowed on all commodities for the purposes set forth in Rule 1, except as hereinafter provided:

(b) When cars are interchanged with minor railroads or industrial plants performing their own switching service, handling cars for themselves or other parties, an allowance of twenty-four hours will be made for switching in addition to the regular time allowed for loading and unloading. If returned loaded, an additional forty-eight hours' free time will be allowed.

(c) Cotton at interior compresses for compression in transit, 72 hours.

(d) Carload freight, for loading or unloading, when the entire shipment is loaded by a consignor, or is received for a consignee, whose place of business is located at an interior point more than five miles from the railroad station, 72 hours.

(e) Carload shipments weighing in excess of 66,000 pounds, 72 hours.

Section 2.

Twenty-four hours, one day, free time will be allowed:

(a) For inspection, disposition and reconsigning of cars of grain, grain products and hay.

(b) For placing reconsignment or switching orders, and on all cars held for disposition, surrender of bill of lading, payment of freight charges, or for final or amended instructions, and on all cars reswitched with original load, when switching charge is made for such movement.

3. Computing time.

NOTE. In computing time, Sundays and legal holidays will be excluded.

(a) Time will be computed from the first 7 a. m. after cars are placed on public delivery tracks for loading.

(b) Time will be computed from the first 7 a. m. after notice to consignee of arrival when cars are held for orders, or from the first 7 a. m. after notice and placing on public delivery tracks when cars are held for unloading.

(c) On cars to be delivered on private tracks, time will be computed from the first 7 a. m. after actual or constructive placement on such tracks.

(d) On cars to be delivered on interchange of minor railroads or industrial plants performing their own switching, the time will be computed from the first 7 a. m. following delivery on such interchange tracks until return to carrier.

DUTIES GOVERNING OPERATION, ETC.

(e) When a car destined for delivery at a particular point shall be brought within the customary switching limits of the delivery road, at the point of destination designated in the bill of lading under which the shipment is carried, the freight therein contained shall, within the meaning of these rules, be deemed to have arrived at destination insofar as to impose on the consignee the duty of giving instructions for the disposition and placing of the car upon receipt by him of notice of the arrival thereof.

(f) If during the free time allowed, a car be moved or its unloading or loading be otherwise obstructed or prevented by the railroad, the consignee or shipper shall not be charged with the consequent delay. If a railroad removes a car after the demurrage begins thereon, such car shall be promptly placed at an accessible point for loading or unloading.

4. Notification.

(a) Notice of arrival of cars must be given, in writing, promptly to consignees. The method for giving such notice shall be by delivering the notice in writing in person or by leaving the same at the consignee's residence or place of business, if he does business in such destination, city or town, or by depositing the notice in the postoffice of such city or town when the consignee resides without the town. Such notice shall legibly show the initials and number of car, contents of same, charges due and amount of freight, and if transferred en-route the number and initials of original car.

(b) Delivery of cars upon private or interchange tracks, or notice to consignee of readiness to so deliver, will constitute legal notification thereof to consignee, but demurrage shall not accrue until car is properly placed for unloading.

(c) Oral or telephone notice is not a legal notice, and if used to expedite business must be followed by written notice as above provided.

(d) When consignors ship goods to themselves or to their order, written notice mailed to the consignee at the point of delivery shall be taken and held to be sufficient legal notice.

5. Placing cars for unloading.

(a) When delivery of cars consigned or ordered to private tracks cannot be made on account of inability of consignees to receive, because of said track being full of loaded cars or unreleased empties, delivery will be considered to have been made when the car was tendered. The agent must give notice in writing of all cars he has been unable to deliver because of the condition of the private tracks, or because of other conditions attributable to consignee. This shall be considered constructive placement.

(b) When delivery cannot be made on especially designated public delivery tracks on account of such tracks being fully occupied, or from other cause beyond the control of the carrier, the delivery will be made at the nearest available point, provided said point is accessible to consignee.

(c) Cars containing freight to be delivered on carload delivery track or private sidings shall be placed on the tracks designated within 24 hours after arrival, if ordered.

(d) When by reason of delay or irregularity of transportation or switching, cars are bunched and delivered to consignee beyond his ability, exercising due diligence, to unload within the free time prescribed in these rules, he shall be allowed by the carrier such free time as he would have been entitled to had the cars been delivered in the order of shipment.

6. Placing cars for loading.

(a) Cars for loading will be considered placed when such cars are actually placed or held on orders of the consignor. In the latter case the agent must give notice in writing to consignor of all cars which he has been unable to place because of the condition of private tracks or because of other conditions attributable to the consignor. This will be considered constructive placement.

(b) When cars are reloaded after unloading, each operation will be considered as independent of the other. When loading is begun before unloading is completed, cars will be considered as released from unloading and placed for loading at the time the loading is begun, the time for loading being computed from the first 7 a. m. thereafter.

7. **Inability of connecting line to receive.** When a railroad is unable to receive cars in switching service tendered by a connection to be placed for delivery, owing to the inability of the consignee to receive, it shall promptly notify the line offering, in order that notice may be given the consignee or consignor and other disposition requested. Notice shall be given the consignee within 24 hours by the road offering the car and 24 hours allowed such consignee for its disposition.

8. Demurrage charge.

(a) After the expiration of free time allowed, a charge of one dollar per car per day, or fraction of a day, shall be made.

RAILROADS

(b) Agents must assess and collect all demurrage due on cars before delivering them when same has accrued between notice of arrival and ordering. When in doubt they shall demand the demurrage at the end of the free time for loading or unloading, and if payment is refused they shall decline to deliver the car or allow the lading to be taken from it, either by sealing or locking the car or by placing it where it is not accessible to shipper or consignee.

(c) If a car is ordered to private track for a party who has declined to pay previous bills, agents shall refuse to switch said car to said track until the demurrage due or which may accrue on such car is paid or guaranteed.

(d) In case consignee refuses to pay demurrage charges that have accrued while cars have been held for or by loading, agents shall refuse to issue bills of lading or ship the goods until demurrage charges are paid or authorized inserted in bill of lading and billed out as advance charges.

(e) Demurrage shall be collected in the same manner and with the same regularity and promptness as other transportation and switching charges.

9. Weather.

(a) Whenever the weather between 7 a. m. and 6 p. m., during free time, is so severe, inclement or rainy that it is impracticable to secure means of removal or loading of freight, or where the nature of the goods removal or loading would cause injury or damage, such time shall be added to the free period, and no demurrage charges shall be allowed for such additional time.

(b) If shippers or consignees fail to avail themselves of the first 48 hours of suitable weather, no additional free time will be allowed by reason of such neglect.

10. Storage charge.

(a) Storage will be charged on all less than carload freight held in or on railroad warehouse or platforms over 48 hours from the first 7 a. m. after notice of arrival, not including Sundays and legal holidays, at the rate of five (5) cents per ton for each 24 hours or fraction thereof.

(b) Double these charges shall be assessed on shipments of explosives, and dangerous articles other than explosives requiring red, yellow, green and white I. C. C. labels.

(c) The minimum charge for any one shipment shall be 10 cents.

(d) Ten days' free time will be allowed on less than carload shipments when destined to consignees who live at interior points five miles or more from the railroad station.

(e) Freight in cars placed on delivery track and subsequently unloaded in railroad warehouses or platforms is subject to demurrage rules while on delivery track, and storage rules thereafter.

11. Complaints. All complaints that may arise from non-conformity to any of these rules or from neglect or indiscretion in enforcing same, and all doubtful and complicated cases involving any uncertainty as to the proper meaning and application of these rules, may be referred to the Corporation Commission.

12. The right is reserved by the Commission to relieve carriers, consignees or shippers from any hardships incident to the enforcement of these rules, whether caused by matters over which they have control or not.

Dated February 27, 1909.

ORDER No. 1297.

It is, therefore, considered, ordered and adjudged by the commission that paragraphs C, D and E, section 1 of rule 2 of commission's order 167, be cancelled, and that paragraph A of rule 8 of commission's order 167, be cancelled, and the following substituted therefor:

Paragraph A—Rule 8. After the expiration of 48 hours free time allowed, the following charges per car per day or fraction thereof shall be made until car is released:

On cars not subject to average agreement, \$2 per car for each of the first five days, \$5 for the sixth and each succeeding day.

Rule 13—average agreement: When a shipper or receiver enters into the following agreement, the charges for detention to cars, on all cars held for loading or unloading by such shipper or receiver shall be computed on the basis of the average time of detention to all such cars released during each calendar month, such average detention and charge to be computed as follows:

Section A. One (1) credit will be allowed for each car released within the first twenty-four hours of free time (except for a car subject to rule 2, section 2, paragraphs (a) and (b)).

After the expiration of the free time, one (1) debit per car per day, or fraction of a day, will be charged for the first five (5) days.

In no case shall more than one (1) credit be allowed on any one car, and in no case shall more than five (5) credits be applied in cancellation of debits accruing on any one car. When a car has accrued five (5) debits a charge of \$5 per car per day, or fraction of a day, will be made for all subsequent detention, including Sundays and legal holidays.

DUTIES GOVERNING OPERATION, ETC.

Section B. At the end of the calendar month, the total number of credits will be deducted from the total number of debits and \$2 per debit charged for the remainder. If the credits equal or exceed the debts, no charge will be made for the detention of the cars, and no payment will be made to shippers or receivers on account of such excess of credits, nor shall the credits in excess of the debits of any one month be considered in computing the average detention for another month.

Section C. A shipper or receiver who elects to take advantage of this average agreement shall not be entitled to cancellation or refund of demurrage charges under rule 5, paragraph D, and rule 9, paragraphs A and B.

Section D. A shipper or receiver who elects to take advantage of this average agreement may be required to give sufficient security to the carrier for the payment of balances against him at the end of each month.

This increased rate is allowed with the understanding that the average agreement, rules and regulations as set forth in rule No. 12 of this supplement to commission's order 167, are permitted to apply on all business.

This order shall be in full force and effect on and after the first day of August, 1917, and shall remain in full force and effect until May 1, 1918, unless modified prior thereto by the commission.

Done at Oklahoma City this the 10th day of July, 1917.

NOTE: Foregoing order modified by Journal Entry of January 8, 1918, effective January 21, 1918, to conform to rules of U. S. Director General, as follows: (1) Average agreement eliminated. (2) Demurrage charges increased to \$3.00 for first day and \$1.00 additional for each succeeding day, with a maximum charge of \$10.00 per day per car.

Commerce—interstate commerce—interference—orders of Corporation Commission. That part of order No. 167, rule 10 of the State Corporation Commission, which provides that ten days' free storage shall be allowed on less than car load shipments, when destined to consignees who live at interior points five miles or more from the railroad station, in so far as it applies to interstate commerce is void. *A. T. & S. F. Ry. Co. v. State*, 31 Okla. 767, 123 Pac. 1965. See also *St. L. & S. F. R. Co. v. State et al.*, 26 Okla. 62, 107 Pac. 929.

ORDER No. 168—RULES GOVERNING THE HANDLING AND MOVEMENT OF FREIGHT.

1. Duty of railroads. It is hereby declared to be the duty of each and every railroad company doing business in this State to furnish suitable and adequate cars; provided no railroad shall be required to load or furnish for use the cars of a foreign line when said railroad has its own cars available for the service, to any and all persons, firms and corporations, without discrimination as to number, or use or kind, who may apply therefor in good faith, for the transportation of any and all kinds of freight which may be legally conveyed within this State, and to receive, give bills of lading for and transport freight with all reasonable dispatch, and to provide and keep suitable facilities for the receiving and handling of the same at any station or switch on the line of its road, and at or near the intersection, at any station or switch on the line of its road, and at or near the intersection or junction, or crossing of its line with the line of any other railroad, and also to receive and transport in like manner the empty or loaded cars freighted by any connecting, joining, or intersecting railroad to be delivered at any station or switch on its line, or to any other railroad at or near any junction or connection or intersection of any other railroad; to be loaded, discharged or reloaded, and returned to the road so connecting, joining, or intersecting, and for compensation it shall not demand or receive any sum greater or less than is accepted by it from any other person, firm or corporation, or any connecting, joining, or intersecting railroad for a like service.

2. Receiving loaded cars. Freight to be transported in carload lots shall be received by each initial carrier, in cars provided by it when same are properly loaded on and tendered on its own tracks, or private, industrial, or other tracks, at the connection with its own lines.

3. Receiving less than carload freight. Freight to be transported in less than carload lots shall be delivered to and received by each initial carrier at its freight houses, platforms, or sheds, as may be customary, properly packed and marked for shipment.

4. Shipping order. When freight is tendered as above provided, shipper shall also furnish advice to the agent of the carrier, in writing, the commodity shipped, number of packages, name of consignee and point of destination, and the freight charges, if demanded in advance.

5. Issuing bill of lading. Upon receipt of freight and notice as herein specified, it shall be the duty of the agent of the carrier to immediately examine same, and if found as described to immediately issue and deliver to shipper a bill of lading, stating therein name of shipper, number of packages or pieces, commodity, name of consignee and destination, and if freight, as tendered, is in bad order, notation shall be made on the bill of lading. Immediately upon the issuance of bill of lading, carrier's control over and responsibility for such freight shall commence. (This rule shall not be construed as requiring agents to certify as to the number of packages or pieces in cars tendered as carload shipments.)

RAILROADS

6. Rate of movement—as amended by Order No. 780. It shall be the duty of the carrier to begin the forward movement of all freight toward its destination within twenty-four hours after the bill of lading is signed, except kerosene, gasoline, crude oil, lubricating oil, linseed oil, turpentine not boxed or sealed, or other oils that would injure other commodities if shipped in the same car in less than carload lots. The carriers may arrange to move kerosene, gasoline, crude oil, lubricating oil, linseed oil, turpentine not boxed or sealed or other oils that would injure other commodities if shipped in the same car, on two days of each week only in equipment assigned to that service, provided that the shipment when started shall proceed to destination. (The carriers shall accept kerosene, gasoline, crude oil, lubricating oil, linseed oil, turpentine not boxed or sealed and other oils that would injure other commodities if shipped in the same car, in less than carload lots and issue bill of lading therefor when offered, but its forward movement may, in the discretion of the carrier, be on the regular days for the movement of these commodities.) And after the movement thus commences, such freight shall be carried toward its destination at a rate of not less than 50 miles a day covering the whole period any carrier controls the same, and at junction and divisional points, twelve hours additional time shall be granted; except that in movements of perishable freight and live stock, in less than carload lots, the minimum rate shall be 100 miles per day and six hours additional time at junction and divisional points.

And as further amended by order No. 1069, railroads shall notify the shippers of live stock a sufficient length of time before the arrival of the train on which the live stock is to be transported that the same may be loaded and ready for transportation before the arrival of the train on which they are to be moved; that the movement of said live stock upon all main lines of railroad in the State of Oklahoma shall move at the rate of 14 miles per hour, less the necessary time in feeding and watering said live stock; that upon all branch lines the movement shall be not less than 12 miles per hour, less necessary time for feed and water; all two or more line hauls shall move at the rate of 12 miles per hour.

It is further ordered that the St. Louis & San Francisco Railroad and the Missouri, Kansas & Texas Railway Company shall establish a joint through route twice a week for the transportation of live stock from a point, Bokhoma, Oklahoma, via Madill and Ada on the Frisco, and from Ada to Oklahoma City over the M. K. & T., provided that the Frisco may upon application to the commission make this route via Holdenville over the Rock Island to Oklahoma City.

If the business does not justify the operation of the two trains per week, application may be made to the commission and only one train per week operated as herein ordered.

It is further ordered that if any special reasons exist why live stock cannot move from certain points or roads in Oklahoma at the rate of speed herein provided such road or roads may make application to the commission setting forth the respective facts that the order may be modified to meet such special conditions.

It is further ordered that when live stock is delivered on the connecting track at Oklahoma City by 6:30 o'clock a. m. by the delivering carrier on the day following the receipt of such live stock, the same shall be substantial compliance with this order.

7. Excluding holidays. In computing time, Sundays and legal holidays will be excluded.

8. Partial deliveries. When for any reason carriers are unable to tender entire shipment to consignee at destination, freight charges shall only be assessed and collected on that part of shipment which is tendered for delivery.

Carriers—regulation—orders of Corporation Commission—construction. Rule 6 of order 168, imposed by the Corporation Commission, applies only to intra-state shipments.

(c) A fine on account of interstate shipments cannot be imposed under said rule upon a carrier. *A. T. & S. F. Ry. Co. v. State et al.*, 33 Okla. 158, 121 Pac. 56. See also *A. T. & S. F. Ry. Co. v. State et al.*, 33 Okla. 165, 121 Pac. 57.

ORDER NO. 169 RULES GOVERNING THE FURNISHING OF CARS FOR LOADING.

1. Furnishing cars. For freight to be transported in carload lots initial carrier shall furnish adequate and suitable cars.

2. Requisition and receipts. Requests for empty cars for loading shall be made in writing on blanks, as shown in rule No. 11 (which shall be furnished by the initial carrier), addressed to the agent of the initial carrier at or nearest to the point where car or cars are wanted, and receipts as shown in rule 11 shall be given by the agents of initial carriers to each party making such requests.

3. Deposit. Before receiving and filing such requests agents may demand a deposit of, or security in the sum of ten (\$10,000) dollars per car for each car demanded.

DUTIES GOVERNING OPERATION, ETC.

4. Time for furnishing cars. Cars ordered as provided in rule No. 3 shall be furnished and properly set for loading within the time designated below, counting from the next 7 o'clock a. m. following receipt of notice: One or two cars, 48 hours; three to five cars, 72 hours; six or eight cars, 120 hours; nine or more cars, 144 hours.

5. Placing cars. Upon furnishing and setting of such car or cars so demanded, the carrier shall immediately notify the shipper, in writing, specifying the kind, initial and number and exact location of the said car or cars.

6. Returning deposit. Immediately upon the loading and properly tendering for shipment of cars furnished under preceding rules, the deposit, or security provided for in rule No. 3 shall be returned to the shipper, provided such deposit or security was demanded by the agent.

7. Time for loading. Within forty-eight (48) hours after the next 7 o'clock a. m. following the receipt of notice of placing of said car or cars, it shall be the duty of said shipper to properly load and make ready for movement said car or cars and to so notify said carrier in writing, specifying commodity with which loaded, name of consignee and point of destination.

8. Charges for cars not used. Where shippers fail to commence loading within forty-eight hours after the next 7 o'clock a. m. following the receipt of notice that car or cars have been placed as ordered, carriers may remove said car or cars and deduct from amount so deposited or secured the sum of five (\$5.00) dollars for placing each of said cars and one (\$1.00) dollar per day demurrage for each twenty-four (24) hours or fraction thereof, that cars have remained at disposition of shipper after the next 7 o'clock a. m. following receipt of said notice of the placing of such car or cars. Provided, that if shipper, in writing, states that he desires said cars to remain at his disposal the carrier shall not remove same until the demurrage that has accrued shall equal the amount deposited.

9. Excluding time.

(a) In computing time, Sundays and legal holidays will be excluded.

(b) In case of inclement weather between 7 o'clock a. m. and 6 o'clock p. m. during free time, where the property would be seriously damaged in loading, free time will be extended to an extent equaling the actual duration of such inclement weather so that shippers will have forty-eight hours of suitable weather in which to load the freight.

(c) If shippers fail to avail themselves of the first forty-eight hours of suitable weather, no additional free time will be allowed by reason of such neglect.

10. Inability to furnish cars. If any carrier, by reason of shortage of cars, is actually unable to comply with all proper demands made upon it, its actual supply of the same shall be ratably and equitably proportioned and furnished.

Where shortage of cars on any division exceeds twenty-four, for two or more consecutive days, notice of such shortage shall be immediately furnished this commission, stating the number of cars ordered, number furnished, and steps taken to supply deficiency.

11. Form of requisition. Blanks of the following form shall be furnished in duplicate by the carrier to the applicant; applicant shall fill out in duplicate, and tender to the agent of the carrier, who shall immediately number, date and sign, placing the original on file in his office, and returning duplicate to the applicant as his receipt:

Agent's No.----- (Station) (Date)-----

To Agent-----Rail-----Co.,

at-----, Oklahoma.

I hereby make requisition for-----cars suitable for shipping

-----Destined to be placed at-----

on the-----day of-----

Agent-----Rail-----Co.,

(Hour) (Date)

Applicant.

12. Furnishing requisition. Each carrier shall keep a sufficient supply of blanks provided for in rule No. 11 on hand at all stations at all times, and it shall be the duty of the agent of the carrier to advise shippers that these requisitions are on hand and must be filled out, and, where necessary, shall assist shippers in filling out such applications.

RAILROADS

ORDER No. 170—RULES GOVERNING THE RECONSIGNMENT OF FREIGHT.

1. Refusal of cars at destination. If car or cars are refused at destination by consignee, the carrier shall promptly arrange for telegraphic information to be given the shipper.

2. Reconsignment. The destination and consignee of any carload shipment may be changed, and through rate from point of origin to final destination shall be protected subject to conditions named herein.

3. Charges for reconsignment.

(a) If destination is changed before arrival of car at original destination a charge of one (\$1.00) dollar per car shall be made.

(b) If destination is changed after arrival at first destination, but before being set for unloading, a charge of two (\$2.00) dollars per shall be made.

(c) If destination is changed after car has reached first destination and been set for unloading, a charge of three (\$3.00) dollars per car shall be made.

(d) Demurrage charges at first destination shall be assessed at the rate of one (\$1.00) dollar for each twenty-four (24) hours, or fraction thereof, after receipt of written notice of arrival by the consignee.

4. Through rates. Rates shall be assessed from point of origin to final destination via the route by which the cheapest rate can be made from point of origin to final destination via the first and subsequent destination.

5. Rates on long hauls. If changing destination causes a through haul via the shortest route of more than four hundred and fifty (450) miles, from point of origin to final destination via the first and subsequent destination, a charge of four (4) mills per ton per mile shall be assessed for each mile hauled in excess of four hundred and fifty (450) miles, in addition to the through rates.

6. Definition of first destination. When destination of shipment is changed in transit short of original destination, such point shall be considered as first destination.

ORDER No. 147—PHYSICAL CONNECTION—AVAILABLE ROUTE.

The points at which railroads or railways cross each other at grade shall be considered a practicable and available route for figuring rates on the transportation of freight, regardless of whether there are physical connections at said points or not. Where one or more lines are connected by an industrial or switch track, whether owned jointly or separately by either or all of said roads, said industrial or switch track shall be considered as a physical connection, and a route via such industrial or switch track shall be considered a practicable and available route.

Dated December 2, 1908.

ORDER No. 501—PRESCRIBING RULES, REGULATIONS AND REQUIREMENTS GOVERNING MOVEMENT AND HANDLING OF FREIGHT AND ASSESSMENT OF CHARGES.

To all railroads: Notice is hereby given that the following order shall be in full force and effect on and after the 21th day of July, 1911:

Rule No. 1. When a carload or less than carload commodity rate is established, it shall remove and supersede the application of class rates between the same points on such commodity in carload or less than carloads, as the case may be.

Rule No. 2. When a carrier receives an order for a car or cars of specified minimum or carrying capacity such as are commonly in use on its line, not specifically devoted to some other service, and the carrier, for its own convenience and without the consent of the party ordering the car, furnishes a car or cars of a greater length or carrying capacity than ordered, the shipment must be accepted and billed by the carrier subject to the minimum weight applicable on the equipment ordered and the forwarding agent shall make the following notation on the bill of lading and way bill:

"Car subject to minimum weight of _____ pounds ordered."

Provided: If the shipper takes advantage of the larger car and loads same in excess of the carrying capacity of the equipment ordered, the shipment shall be delivered subject to the minimum weight applicable upon the equipment used.

Rule No. 3. Where two or more routes are available between point of origin and destination, the line or lines handling shipments between such points shall assess and collect charges as though the shipment had actually moved via the route via which the lowest rate could be made.

Provided: That only the line via which the lowest rate can be made shall be required to accept the shipment at such rate and if it is tendered to other than the initial carrier of the lowest rate line such carrier shall have the option of refusing to accept the shipment at the low rate and if the consignor insists upon routing via that line such carrier must accept the shipment, but shall be

DUTIES GOVERNING OPERATION, ETC.

entitled to charge the regular rate applicable via the line the shipment is routed, but before accepting such shipment such carrier shall require the consignor to sign a statement in duplicate, one copy to be maintained in such agent's files, and the other to accompany the shipment to destination, and such statement shall read as follows.

"To the-----Railroad Company:
"Understanding that the rate on the shipment today tendered you by the undersigned, destined to-----is higher if routed via your line than if shipment was tendered to another carrier at this point, I hereby authorize you to forward this shipment via the routes shown below and assess freight charges in accordance with the legal tariffs via that route.

(Signature)

If the initial carrier accepts without requiring the above statement it shall be responsible for the application of the lowest rate to destination.

Note: Where, under the above, one or more carriers meet the rate of one or more other carriers, between competitive points, it will not have the effect of maintaining such rate at intermediate points but such rates shall be considered for such longer or higher rate line as a terminal rate.

Rule No. 4. All carload shipments shall be weighed at least one time, if a track scale is located on the line of shipment between point of origin and destination, and the gross, tare and net weight shall be shown on the way bill.

Rule No. 5. No charges shall be assessed or collected on that portion of a shipment which is not delivered to the consignee.

Rule No. 6. All shipments shall be billed from point of origin to final destination and the original way bill or an exact copy thereof must be in the hands of the delivering agent before charges are assessed and collected from consignee. Such way bill shall show the name and address of consignor, through what junctions shipments are to be moved, at what point carload shipments were weighed and a complete description of the property transported.

Rule No. 7. The delivering agent shall issue to consignees an expense bill or receipt for all shipments and the same shall show the original point of origin, the consignor, consignee, weight, rate and charges, and if any charges appear upon the expense bill other than straight freight charges they shall be fully and definitely explained and in case of carload shipments the car number in which shipment is delivered and the numbers of any and all cars from which said shipment may have been transferred enroute must be shown upon the expense bill.

All orders or parts of orders heretofore issued by this commission which in any way conflict with the rules named herein are hereby cancelled and superseded by this order, the commission reserving the right to relieve carriers, consignors or consignees of any hardships caused by the enforcement of these rules either before or after the occurrence.

Dated Oklahoma City, Oklahoma, July 2, 1911.

ORDER No. 148—RELATING TO REPORTING ACCIDENTS BY ALL STEAM AND ELECTRIC RAILWAYS.

(1) All railroad and railway companies and street car companies operating within the State of Oklahoma, shall at once, upon the happening of an accident, send telegraph report to the commission at its office in Oklahoma City of the following classes of accidents:

Report by telegraph. (a) All accidents resulting in loss of life or limb or serious injury to passengers or employes. (b) All derailments of passenger trains, or locomotives, or cars in passenger trains. (c) All collisions involving freight or passenger trains, whether resulting in loss of life or not. (d) All explosions of boilers, and also all accidents to locomotive boilers resulting in death or serious injury to any person. (e) All bridge failures. The telegraph report shall show the date, time and place and kind of accident; the train or trains involved; the numbers of passengers killed or injured, if any. In Class "D" the notice must show the number of locomotive and place where the boiler can be examined. The provision in reference to derailments does not apply to minor derailments.

Report by mail. (2) Every accident, whether covered in a preliminary notice by telegraph or not, shall be reported to the commission upon a form prescribed by the commission immediately after the circumstances attending the accident shall have been ascertained. (3) An accident occurring on railroad or division used jointly or in common by two or more companies, shall be reported by the company whose superintendent has immediate charge of the road, or the division in question. (4) A collision (as at crossings) of the trains of two different companies shall be reported by both companies. The report of such collision shall be plainly endorsed at the top "crossing" or "junction." (5) An accident on a private siding or private track shall be reported by the railroad company to which the engine at work on the siding belongs. (6) Accidents to persons, resulting in immediate death or death within forty-eight hours from the time of the accident, shall be reported on the blank form in the column headed "Killed." All other accidents to persons, including those resulting in death of the person injured after an interval of more than forty-eight hours from the

RAILROADS

time of the accident, shall be reported in the column "Injured" in daily reports, and upon the death of an injured person, after forty-eight hours, a supplemental report shall be made, stating the time and place of the death, and the nature of the injury from which such person died. (7) Accidents to employes in repair shops, construction shops, or other places, remote from the railroads, and not connected with the transportation department, shall not be reported. (8) Reports will be numbered consecutively, beginning with each calendar year. (9) The term "freight train" is to include all trains and engines or parts of trains of any kind which are not included under "passenger." (10) Give in the space provided, the time that the accident occurred; if within an hour of sunrise or sunset say whether daylight or dark. (11) Persons killed or injured should be classified so as to show whether or not they are passengers or employes, and if employes, kind and character of work engaged in.

Nature and cause of accident. (12) Give the kind and number of each train or electric car, direction of its movement (east, west, north or south), brief description of damage to cars, engines or other property. (13) Give statement of cause or causes as reported by division superintendent or other officer in immediate charge. If the accident was caused, or is believed to have been caused by an employe, state the experience of the employe, and give number of hours he has been on duty, and the number of hours rest for forty-eight hours preceding accident. (14) Quote the rule or rules bearing on the operation involved. (15) In case of failure of air brakes, give initial and number of car, name and style of apparatus and in case a car in a train is without air brakes, mention that fact. (16) Where accident is due to coupling or uncoupling of cars, give the facts and circumstances, and in case of defective couplers, give initial and number of car, name and style of coupler. (17) Where accident is due to coming in contact with overhead obstructions or obstructions at side of track, give height of car, lateral distance from center of track, presence or absence of warning guards, presence of fog, snow or ice. (18) Where accident occurs at a crossing, state whether crossing is protected and how. If protected by gates or alarm bell, state if in good working condition; if by flagman, state what warning was given. (19) All railroad companies shall send to the commission a copy of their final record as to the cause of any accident, when the same shall have been ascertained and such record made a part of the permanent records of the company.

Dated December 2, 1908.

(See A. T. & S. F. Ry. Co. v. State et al., 24 Okla. 807, 105 Pac. 352; St. L. & S. F. R. Co. v. State et al., 24 Okla. 805, 105 Pac. 251; G. C. & S. F. Ry. Co. v. State et al., 33 Okla. 378, 125 Pac. 1103.)

217. Agent's neglect of duty. Any engineer, conductor, brakeman, switchtender or other officer, agent or servant of any railroad company, who is guilty of any wilful violation or omission of his duty as such officer, agent or servant, by which human life or safety is endangered or property is injured or destroyed, the punishment for which is not otherwise prescribed, is guilty of a misdemeanor.

See 2538, R. L. 1910.

History. Dak. 6666; S. 1890, Sec. 2303. Revision: Following "endangered," there is inserted "or property is injured or destroyed" to cover such cases.

218. Injuries to persons. In case any passenger on any railroad shall be injured while on the platform of a car while in motion, or in any baggage, wood or freight car, in violation of the printed regulations of the corporation posted up at the time in a conspicuous place inside of its passenger cars then in the train, such corporation shall not be liable for the injury, if it had furnished room inside its passenger cars sufficient for the accommodation of its passengers.

See 1123 R. L. 1910.

History. Dal. 2009, S. 1890, Sec. 1063. Revision: "If" substituted for "provided."

See Sec. 2845, notes

Statutes of New York and Missouri, identical with this. Lane v. Choctaw, 6 R. R. Co. 19 Okla. 371, 91 Pac. 883.

Carrier is exempted from liability only when it has posted in conspicuous place regulation forbidding passenger to occupy places of danger, and has furnished sufficient accommodations in its passenger coaches; and question of whether or not this has been done is for the jury. Lane v. Choctaw, etc., R. R. Co. 19 Okla. 371, 91 Pac. 883. Citing numerous New York and Missouri authorities.

DUTIES GOVERNING OPERATION, ETC.

Same—pleading—rules. Necessary to plead rules and regulations for conduct of passengers, and allege a violation thereof, if it desires to avail itself of such defense. *Id.*

Riding on platform as affecting right to recover for injury through accident to train or car. 17 L. R. A. (ns) 158-n.

Same. As negligence. 29 L. R. A. (ns) 325-n.

Same. With knowledge of carrier. 1 L. R. A. (ns) 1145-n.

219. Fare paid imposes duty on company. When fare is taken by any railroad corporation for transporting passengers on any mixed train of passenger and freight cars, or on any baggage, wood, gravel or freight car, the same care must be taken and the same responsibility and duties are assumed by the corporation as for passengers on passenger cars.

Sec. 1424, R. L. 1910.

History. Dak. 3010; S. 1890, Sec. 1064.

Construed. Lane v. Choctaw, etc., R. R. Co., 19 Okla. 324, 91 Pac. 883.

Sufficiency of tender of fare to prevent ejection. 31 L. R. A. (ns) 991-n.
146 Pac. 210.

220. Changing highway. Any railroad corporation may raise or lower any turnpike, plank road or other way, for the purpose of having its railroad pass over or under the same; and in such cases said corporation shall put such turnpike, plank road or other way, as soon as may be, in good repair.

Sec. 1425, R. L. 1910.

History. Dak. 3011; S. 1890, Sec. 1065.

221. Same—to provide temporary way. Every railroad corporation, while employed in raising or lowering any turnpike or other way, or in making any other alterations, by means of which the said way may be obstructed, shall provide and keep in good order suitable temporary ways to enable travelers to avoid or pass such obstructions.

Sec. 1426, R. L. 1910.

History. Dak. 3012; S. 1890, Sec. 1066.

222. Bridge repairs. Every railroad corporation shall maintain and keep in good repair all bridges, with their abutments, which such corporation shall construct for the purpose of enabling its road to pass over or under any turnpike road, canal, water course, or other way.

Sec. 1427, R. L. 1910.

History. Dak. 3013; S. 1890, Sec. 1067.

Duty to construct bridges at its own expense over public drainage ditches. 31 L. R. A. (ns) 1118-n.

223. Signs at crossings. Every railroad corporation operating a line of road within this State must erect suitable signs of caution at each crossing of its road with a public highway, which signs shall be painted with black Roman or block letters, on white background, "Railroad Crossing—Look Out for the Cars"; said letters to be at least eight inches in length and proportionately broad; said signs shall be placed at the top of posts at least fifteen feet high.

Sec. 1428, R. L. 1910.

History. Dak. 3014; S. 1890, Sec. 1068.

224. Same—neglect. In case any railroad corporation shall refuse or neglect, for a space of thirty days after notice given by

RAILROADS

the board of county commissioners, to comply with the provisions of the preceding section, it shall become the duty of the county commissioners of each county through which any such railroad shall be in operation to erect such signs, and the company shall be liable for all expenses so incurred by said commissioners.

Sec. 1429, R. L. 1910.

History. Dak. 3015; S. 1890, Sec. 1069.

225. Bells and whistles. A bell of at least thirty pounds weight, or a steam whistle, shall be placed on each locomotive engine, and shall be rung or whistled at the distance of at least eighty rods from the place where the said railroad shall cross any other road or street, under a penalty of fifty dollars for every neglect, to be paid by the corporation owning the railroad, one-half thereof to go to the informer, and the other half to the State, and shall also be liable for all damages which shall be sustained by any person by reason of such neglect.

Sec. 1430, R. L. 1910.

History. Dak. 3016; S. 1890, Sec. 1070.

Power of municipal corporations to regulate speed of and signals from trains at highway crossings. 17 L. R. A. (ns) 561-n.

Duty as to signals by locomotives approaching overhead crossings. 1 L. R. A. 307-n; 22 L. R. A. (ns) 915-n.

Duty to give crossing signals for the benefit of persons near a crossing, but who are not about to use the same. 31 L. R. A. (ns) 668-n.

226. Failure to ring bell of locomotive. Any person in charge, as engineer, of a locomotive engine, who omits to cause a bell to ring or a steam whistle to sound at the distance of at least eighty rods from the place where the track crosses, on the same level, any traveled public way, is punishable by a fine not exceeding fifty dollars or by imprisonment in the county jail not exceeding sixty days.

Sec. 2536, R. L. 1910.

History. Dak. 6661; S. 1890, Sec. 2301.

Giving the statutory signals as the measure of trainmen's duty at highway crossings. 15 L. R. A. 426-n.

Power of municipal corporations to regulate speed of, and signals from trains at highway crossings. 17 L. R. A. (ns) 561-n.

Duty as to signals by locomotives approaching overhead crossings. 1 L. R. A. (ns) 307-n; 22 L. R. A. (ns) 915-n.

Duty to give crossing signals for the benefit of persons near a crossing, but who are not about to use the same. 31 L. R. A. (ns) 667-n.

Liability for failure to give statutory signals when they would not have prevented the injury. 21 L. R. A. 723-n.

227. Causeway. When any person owns land on both sides of any railroad, the corporation owning such railroad shall, when required to so do, make and keep in good repair one causeway or other safe and adequate means of crossing the same.

Sec. 1121, R. L. 1910.

History. Dak. 3017; S. 1890, Sec. 1071.

Undergrade crossing included under the terms of this section. White v. M. K. T. Co., 26 Okla., 232, 110 Pac. 18.

A public consideration is involved in these crossings. The convenience of both parties is to be considered and neither should place a burden upon the other. Id.

Question to be settled by jury when parties cannot agree. Id.

Extract from opinion. The purpose of this proceeding is to secure a farm crossing for a man who needs it, and as far as possible his convenience should be consulted in its place of location. As long as this case pends here, he is denied the necessity, hence, to secure this end, the order is made. Under

DUTIES GOVERNING OPERATION, ETC.

these circumstances, the case is remanded to the Corporation Commission, with directions to have the place of the crossing definitely designated and determined by its official engineer, and the company will then under its proffer and this judgment, construct a crossing suitable for the uses intended. *Missouri, Kansas and Texas Ry. Co. v. State*, 26 Okla. 279; 109 Pac. 65.

228. Railroads to construct crossings. It shall be the duty of every railroad company or corporation doing business, or operating a line of railroad, within this State to construct a crossing across that portion of its track, road-bed or right of way over which any public highway may run, and maintain the same unobstructed, in a good condition for the use of the public and to build and maintain in good condition all bridges and culverts that may be necessary on its right of way at such crossing; and in case any railroad company or corporation fails so to construct and maintain said crossing for thirty days after written notice by the road overseer of any road district or the council or board of trustees of any city or town in this State, or fifty petitioners of any city or town who are interested (where such work or repairs are needed), to be given to the section boss, or any station agent of any railroad company or corporation in the county (where such work or repairs are needed), it shall forfeit and pay to said county, road district, city or town complaining, the sum of twenty-five dollars per day for every day said company or corporation may neglect to comply with the requirements of this section.

Sec. 1432, R. L. 1910.

History. L. 1907-8, p. 646; effective Aug. 24, 1908.

Power to compel railroad to establish or maintain at its own expense overhead or underground crossing, as affected by the fact that the street or highway is opened subsequently to construction of railroad. 28 L. R. A. (ns) 298-n.

229. Same—powers of city council. The council shall have power to regulate levees, depots, depot grounds and places of storing freight and goods, and provide for the passage of railways through the streets and public grounds of the city; also to regulate the crossings of railway tracks, and to provide precautions and prescribe rules regulating the same, and to regulate the running of railway engines, cars and trucks within the limits of said city, and to prescribe rules relating thereto, and to govern the speed thereof, and to make any other and further provisions, rules and restrictions to prevent accidents at crossings and on the tracks of railways, and to prevent fires from engines.

Sec. 598, R. L. 1910.

History. S. 1890, Sec. 620.

Constitutionality of statute, authorizing. 50 Am. Dec. 782.

Cited, etc., 146 P. 436.

(For other sections relating to railroads in cities and towns, see chapter on Cities and Towns in R. L. 1910.)

Railroads.—right to establish railroad crossings—Corporation Commission. The jurisdiction to open public highways and crossings over railway rights of way is vested in the local authorities and not in the Corporation Commission of the State; and, where no highway or crossing has been lawfully established and opened over the right of way of a railroad, the said Commission has no jurisdiction to determine the character of the crossing to be provided, and require its installation. *A., T. & S. P. R. Co. v. State ex rel. West, Atty. Gen.* 40 Okla. 411, 138 Pac. 1026.

RAILROADS

Prohibition—railroads—highway crossings—installation—power of Corporation Commission. Where no highway or crossing has been lawfully established or opened over the right of way of a railway company, the Corporation Commission has no jurisdiction to determine the character of crossing to be provided at such a point and require its installation; and where in such a case it makes an order requiring a public crossing to be installed, a writ of prohibition may issue to prevent its enforcement. *St. L. & S. F. R. Co. v. Corporation Commission of Oklahoma et al.*, 35 Okla. 166, 128 Pac. 496.)

Railroads—establishment of highway crossings—Authority of Corporation Commission—Writ of Prohibition. The jurisdiction to open public highways and crossings over railway rights of way is vested in the local authorities and not in the Corporation Commission of the state; and, where no highway or crossing has been lawfully established and opened over the right of way of a railroad, the said Commission has no jurisdiction to determine the character of the crossing to be provided, and require its installation, and, where in such case it makes an order requiring a specific kind of crossing, jurisdiction is vested in this court to issue a writ of prohibition to prevent its enforcement. (*St. L. & S. F. R. Co. v. Love et al.*, 29 Okla. 523; 118 Pac. 259. See also *A., T. & S. F. Ry. Co. v. Corporation Commission et al.*, 29 Okla. 534; 118 Pac. 263.)

230. Kind of headlight required. Every company, corporation, lessee, manager or receiver, owning or operating a railroad in this State, shall equip and maintain and use upon each and every locomotive being operated in road service in this State, an electric or other headlight of at least one thousand five hundred candle power, measured without the aid of a reflector: Provided, that this section shall not apply to locomotive engines regularly used in switching cars or trains; and Provided, further, that this section shall not apply to locomotive engines used exclusively between sun-up and sun-down, nor going to or returning from repair shops when ordered in for repairs.

Sec. 1433, R. L. 1910.

History. L. 1907-08, p. 645; effective August 24, 1908.

231. Penalty. Any railroad company, or the receiver, or lessee thereof, doing business in the State of Oklahoma, which shall violate the provisions of the preceding section, shall be liable to the State of Oklahoma in a penalty of not less than one hundred dollars nor more than one thousand dollars for each offense. And such penalties shall be recovered and suit brought in the name of the State of Oklahoma, in any court of competent jurisdiction, in any county in or through which such line of railroad may run, by the attorney general, or by the county attorney in any county in or through which such line of railroad may be operated.

Sec. 1434, R. L. 1910.

History. L. 1907-8, p. 616; effective August 24, 1908.

232. Railroads to fence their roads. It shall be the duty of every person or corporation owning or operating any railroad in the State of Oklahoma to fence its road, except at public highways and station grounds, with a good and lawful fence.

Sec. 1435, R. L. 1910.

History. L. 1903, p. 139; effective March 16, 1903.

Injuries to animals. Where company is not required to have fence, but does so, failure to keep fence in condition to prevent animals from going upon the right of way does not subject company to damages unless killing of stock is through negligence. *Davis Bros. & Burke et al. v. Le Flore*, 26 Okla. 729, 110 Pac. 782. Followed in *J. Ind. Ten.*, 29, 35 S. W. 228. Followed in *Davis Bros. & Burke et al. v. Sandoz*, 26 Okla. 733, 110 Pac. 781.

27 Okla. 171, 111 Pac. 10.

Statutory notice—deemed to have been waived where railroad company proceeded to build fence as required by original sections, without notice. *C. & G. R. Co. v. Deperade*, 12 Okla. 367, 51 Pac. 629.

14 Okla. 163, 137 Pac. 711.

DUTIES GOVERNING OPERATION, ETC.

In action by abutting owner against railroad company for failure to maintain fence as required by original sections, title to property is not in dispute. *Id.*

Jurisdiction extended over cases of negligence charged against railroad company for failure to maintain fence along track as required by former sections. *Id.*

37 Okla. 206, 131 Pac. 678.

Duty to fence right of way within limits of city, town, or village. 27 L. R. A. (ns) 796-n.

Same. Against persons, 30 L. R. A. (ns) 1197-n.

Same. Against children. 16 L. R. A. (ns) 1103-n.

Measure of care of railroad company to maintain fence once constructed. 41 Okla. 314, 137 Pac. 357, 150 Pac. 173; 32 Okla. 483, 122 Pac. 136.

What are depot grounds within the meaning of fence laws? 7 L. R. A. (ns) 203-n.

Constitutionality of statutes requiring railroad company to fence tracks and build cattle guards. 31 L. R. A. (ns) 861-n.

41 Okla. 314, 137 Pac. 357, 150 Pac. 173; 32 Okla. 483, 122 Pac. 136.

233. Lawful fence defined. A lawful fence, under the provisions of the preceding section, shall be composed of posts and barb wire, four wires to be firmly fastened to the posts, such posts to be not more than one rod apart, the top wire to be not less than fifty-four nor more than fifty-eight inches from the ground, and the bottom wire to be not more than twenty nor less than fourteen inches from the ground.

Sec. 1436, R. L. 1910.

History. L. 1903, p. 140; effective March 16, 1903.

234. Rights of adjacent land owners. Any person owning or occupying land adjacent to any railroad track shall have the right to attach to the fence constructed along the track or right of way of said railroad company, any wires, boards or other material, so as to make the fence of said railroad company sufficient to prevent any hogs or pigs from getting upon the track of said railroad company.

Sec. 1437, R. L. 1910.

History. L. 1903, p. 140; effective March 16, 1903. Revision: "Of any railroad company" following "track" stricken as unnecessary.

235. Failure to fence—penalty. Whenever any railroad corporation or the lessee, person, company or corporation operating any railroad, shall neglect to build and maintain such lawful fence, such railroad corporation, lessee, person, company or corporation operating the same, shall be liable for all animals killed by reason of the failure to construct such fence.

Sec. 1438, R. L. 1910.

History. L. 1903, p. 140; effective March 16, 1903; 31 Okla. 450, 122 Pac. 152; 41 Okla. 163, 137 Pac. 714; 150 Pac. 173; 32 Okla. 483, 122 Pac. 136.

236. Stock killed—posting notices—records. It shall be the duty of the section foreman or sub-foreman left in charge of the section crew in the absence of the section foreman of all railway and transportation companies operating in this State, to give notice of all stock killed by moving trains of said companies, and buried by authority of the same, by posting within one day from date of burial, notices on bulletin boards at the depot on his section nearest where said stock is killed, giving date of death of animal, as near as may be a description of the stock killed, by mark, brand, color and age as near as may be. Provided the railroad company must keep a permanent record at the depot nearest to place where stock was

RAILROADS

killed for twelve months of all stock, kind and description of the same, as required in the notice to be given. Said record to be opened to the public at all reasonable hours.

Sec. 1, Ch. 78, S. L. 1915.

237. Railroads must fence right of way with hog wire, when.

Whenever the owner, or occupant, of any tract of land abutting on any line of railroad within this State shall desire to enclose any such tract of land for the purpose of making a hog, sheep or goat pasture and shall construct a fence for said purpose about said tract of land on all sides except along the side abutting on such railroad, it shall be the duty of such railroad company to construct a good and sufficient fence not less than four and one-half feet high, one barbed wire at bottom of such fence, immediately above which shall be attached heavy woven wire not less than twenty-eight inches high, and sufficient for the purpose of restraining swine, sheep and goats, with three barbed wires above the same, on the side of such tract, so far as the same extends along the line of such railroad, and maintain the same in good condition, so long as such owner or occupant of such tract may desire to maintain such pasture.

Sec. 1439, R. L. 1910.

History. Dak. 3018; S. 1890, Sec. 1072, as amended by L. 1907-S, p. 648; effective August 24, 1908. Revision: "Abutting against" changed to "abutting on" two instances; the former phrase being an evident misconception of the meaning of the words.

Requirements and liability—duty of railway to construct and complete fence along land abutting on railroad. If it neglects or refuses to do so it becomes liable for all damages accruing by reason of such neglect or refusal. *McCook v. Bryan*, 4 Okla. 488, 46 Pac. 506.

Constitutionality of statutes requiring railroad company to fence tracks and build cattle guards. 31 L. R. A. (ms) 861-n.
37 Okla. 536, 541, 133 Pac. 209; 42 Okla. 171, 141 Pac. 10.

238. Notice to railroads. Whenever the owner or occupant of any tract of land desires to construct a fence as provided in the preceding section, he shall give written notice of his intention to the railroad company upon whose line such tract is situated, by personal service upon the agent of said company at the station within this State, nearest to such tract of land, giving in said notice a description of said land; and it shall be the duty of the railroad company to construct and complete its portion of such fence within sixty days after the service of such notice: Provided that if such owner or occupant fails to construct his portion of such fence, then the railroad company shall not be required to construct such fence.

Sec. 1440, R. L. 1910.

History. Dak. 3019, S. 1890, Sec. 1073, as amended by L. 1907-S, p. 649; effective August 24, 1908.

239. Owner of abutting land may construct if railroad refuses—penalty. If any railroad company shall neglect or refuse to comply with the provisions of the two preceding sections, it shall be lawful for the owner or occupant of such tract of land to construct or repair the fence along the line of such railroad, and the owner or occupant of such tract of land shall be entitled to recover from such

DUTIES GOVERNING OPERATION, ETC.

railroad company the cost of the material and labor used in constructing the railroad company's portion of such fence.

Sec. 1441, R. L. 1910.

History. Dak. 3020; S. 1890, Sec. 1074, as amended by L. 1907-8, p. 649; effective August 24, 1908.

240. Right to deal in passage tickets. Any person having an established place of business in any town or city within this State shall have the right to buy, sell and exchange passage tickets or other evidences of a right of passage from one place to another upon any railroad line or steamboat line and their connections that said tickets may have been regularly issued over and for.

Sec. 1442, R. L. 1910.

History. Dak. 3022; S. 1890, Sec. 1076.

Constitutionality of anti-scalping legislation. 4 L. R. A. (ns) 480-n.
Injunction against dealing in nontransferable railroad tickets. 10 L. R. A. (ns) 437-n.

241. Purchasers may sell tickets. Any person purchasing a ticket from the authorized office of any line for the transportation of passengers shall have the right to sell his ticket or tickets to any person doing business under the preceding section: Provided, that nothing herein shall be construed to prevent any town or city from regulating such business by any law deemed necessary for the protection of the public.

Sec. 1443, R. L. 1910.

History. Dak. 3023; S. 1890, Sec. 1077. Revision: Language improved.

242. Company may lease or sell. Any railroad company, owning any railroad in this State, may sell or lease the whole or any part of its railroad and branches constructed or to be constructed, or any interest therein, together with all the property, rights, privileges, and franchises thereto pertaining, to any other railroad company, subject to the provisions of Article IX of the Constitution: Provided, that no such sale or lease shall be entered into unless the line of railroad so sold or leased shall, when constructed, form a continuous line of railroad with the road of the company purchasing or leasing the same either by direct connection therewith, or through an intermediate line or lines, constructed, or to be constructed, which such purchasing or leasing company shall have the right, by contract or otherwise, when completed, to use or operate, and any railroad company which shall so purchase or lease a railroad or railroads in this State shall possess and enjoy, within this State, all the rights, powers, privileges and franchises conferred by the laws of this State upon a railroad corporation formed thereunder.

Sec. 1446, R. L. 1910.

History. L. 1899, p. 110, as amended by L. 1901, p. 86; effective February 20, 1901. Revision: superfluous language omitted; "subject to the provisions of Article IX of the Constitution" inserted.

243. Transportation companies must maintain repair shops in State. Transportation companies operating within this State which now have in existence round-houses or machine shops for the repairing of locomotives, engines, and cars, or which may hereafter establish such round-houses or machine shops for such purpose,

RAILROADS

shall hereafter maintain such shops and round-houses with sufficient equipment and employes to keep in proper repair all rolling stock, locomotives, engines and cars used within this State in the transportation of passengers and freight and such transportation companies shall hereafter cause all such rolling stock, locomotives, engines and cars to be repaired at such shops or round-houses and kept in a safe and serviceable condition and no such repair shall be done outside the State of Oklahoma, if such repairs can be done at such company's shops within this State.

Sec. 1447, R. L. 1910.

History. L. 1907-8, p. 650; effective May 26, 1908. Revision: Minor changes in language.

244. Same. The provisions of the preceding section shall be deemed a condition and part of every charter granted to any transportation company and of every license of every foreign corporation (or) company to do business in this State.

Sec. 1448, R. L. 1910.

History. L. 1907-8, p. 650; effective May 26, 1908.

245. Eminent domain acceptance of terms of act. The exercise of the right of eminent domain by any transportation company organized or existing under the laws of this State, or the utilization of any franchise by any such company, shall be deemed an acceptance by said corporation of the provisions of the two preceding sections, and no such corporation shall exercise the right of eminent domain or use any such franchise without such acceptance.

Sec. 1449, R. L. 1910.

History. L. 1907-8, p. 650; effective May 26, 1908.

Right of way—beneficiary—bound by conditions imposed by act of Congress granting charter. *Southern Kansas Ry. Co. et al. v. Oklahoma City*, 12 Okla. 82, 69 Pac. 1050.

Act of Congress July 4, 1884, granting right of way to Southern Kansas Railway through Indian Territory, upheld. Act construed. *Id.*

246. Forfeiture of charter and other penalty. Every transportation company which violates the provisions of Section 1447, (243) shall, upon conviction thereof, forfeit its charter or license to do business in the State, and in addition thereto shall be subject to a penalty not to exceed five hundred dollars for each offense; and each separate day that it shall violate the provision of said section shall constitute a separate offense.

Sec. 1450, R. L. 1910.

History. L. 1907-8, p. 651; effective May 26, 1908.

247. Railroad shops—removal—permit. That no person, receiver, firm, company or corporation owning, operating or managing any line of steam railroad in this State shall be allowed to remove railroad shops or division points which have been located at any place in this State for a period of not less than five years without previously securing the permission of the Corporation Commission to make such removal.

Sec. 1, Chap. 225, S. L. 1917.

DUTIES GOVERNING OPERATION, ETC.

248. Corporation Commission—jurisdiction. If and when any such person, receiver, firm, company or corporation desires to remove any such railroad shops or division point described in Section 1 of this Act, it shall be his duty to file an application with the Corporation Commission setting forth the present location of such shops or division point and the reasons for such removal, and thereupon the Corporation Commission shall have full power and jurisdiction to entertain such complaint, but before hearing the same or making any order permitting such removal to be made said cause shall be set down for hearing, not less than ten days' notice shall be given the city, town or village in which or at which such shops or division point have been maintained and after giving all parties interested a full and complete hearing in the premises the commission may in its discretion permit or refuse such request for a removal.

Sec. 2, Ch. 225, S. L. 1917.

249. Hearing—before Corporation Commission. When an application is filed before the commission for the removal of terminals or car shops, as provided in Section 2, the commission shall hear evidence on the relative efficiency and expense of handling traffic through the proposed terminal as compared with the present facilities, and shall consider all other facts and circumstances affecting the various interests involved. In determining the adequacy of the present facilities the commission shall consider the same increased by an expenditure equal to an amount necessary to remove the same to the proposed location or an amount equal to the necessary expenditure to establish such facilities at the new location. It is hereby further provided that the commission shall hear evidence and shall make a finding of fact as to the sanitary and habitable conditions of the proposed location with reference to whether the same would endanger the health of the employees of the applicant or the health of their families. If the commission should find that the sanitary or habitable conditions at the proposed location of said terminal facilities would endanger or injuriously affect the health of the employees of said applicant or their families, the commission shall deny said application and order the said terminal facilities and car shops to remain at the present location.

Sec. 3, Ch. 225 S. L. 1917.

250. Proof—burden upon applicant. On any such hearing, as provided in this Act, the presumption shall be against the removal, and the burden of proof rest upon the applicant to show that such removal ought to be made.

Sec. 4, Ch. 225, S. L. 1917.

251. Domestication—time extended for construction. Every railroad corporation organized under the laws of the Territory of Oklahoma, or of the Indian Territory, prior to the taking effect of the Constitution of this State and within three (3) years before said date and that has heretofore or shall within one (1) year from the

RAILROADS

taking effect of this Act, in good faith, comply with the provisions of the Constitution of this State, and shall, in good faith, commence the construction of its works contemplated in its articles of incorporation or organization is hereby declared to be a domestic corporation under the Constitution and laws of this State.

Sec. 1, Ch. 104, S. L. 1910-11.

Approved March 16, 1911; (in lieu of 1451 R. L. 1910).

252. Same—foreign corporations in the Territory. Every railroad corporation organized under the laws of any other State or Territory or of the United States, that has complied with the laws of the Territory of Oklahoma or of the Indian Territory, within three years before the taking effect of the constitution of this State, to authorize such corporation to transact business in either or both of such Territories and organized for the purpose of constructing its line of railroad through the Territory of Oklahoma, or Indian Territory, or either or both of them, is hereby authorized and empowered to construct, maintain and operate its railroad, with all proper branches or extensions thereof, through the State of Oklahoma or any part thereof formerly constituting the Territory of Oklahoma or Indian Territory or either or both of them, and may, by complying with the provisions of Section 1454 and the Constitution of this State, become a domestic corporation under the constitution and laws of this State.

Sec. 1452, R. L. 1910.

History. L. 1909, p. 151; effective June 10, 1909. Revision: Language improved.

253. Filing map of route. Any railroad corporation organized under the laws of any other state or territory whose chartered line or route passes through the Territory of Oklahoma or Indian Territory, or either or both of them, and whose chartered line or route was not specifically designated or described in its articles of incorporation or organization, is hereby authorized to prescribe its line or route through the State of Oklahoma by filing with the Secretary of State a copy of a resolution of its board of directors describing the same and a map duly certified by its president and chief engineer showing such route: Provided, that such route may be changed on account of engineering difficulties or for other sufficient reasons by resolution of its board of directors; and a duly certified copy of such resolution and a map showing such change in its route shall be filed with the Secretary of State.

Sec. 1453, R. L. 1910.

History. L. 1909, p. 152; effective June 10, 1909.

254. Domestication of foreign corporations by resolution. Every railroad corporation organized under the laws of any other state or territory or of the United States, that, within three years before the taking effect of the Constitution of his State, shall have complied with the laws of the Territory of Oklahoma or Indian Territory to authorize such corporation to transact business in the Territory of Oklahoma or Indian Territory or either or both of them,

CORPORATE MATTERS—FOREIGN CORPORATIONS

and that shall file with the Secretary of State of this State a resolution of its board of directors, duly certified by its president and attested by its secretary under the seal of such corporation, accepting the provisions of the Constitution of this State and agreeing that the Constitution and laws of this State applying to domestic corporations shall apply to such corporation in all respects, is hereby declared to be a domestic corporation under the Constitution and laws of this State.

Sec. 1454, R. L. 1910.

History. L. 1909, p. 152; effective June 10, 1909.

255. Foreign corporations—increase of capital stock. Every railroad corporation organized under the laws of any other state or territory or the United States, that shall have, within the three years prior to the taking effect of the Constitution of this State, complied with the laws of the Territory of Oklahoma or Indian Territory to authorize such corporation to transact business within the Territory of Oklahoma or the Indian Territory, or either or both of them, and shall have complied with the provisions of the preceding section, whose chartered line or route shall pass through other states or territories and the Territory of Oklahoma or Indian Territory or either or both of them, and the capital stock of which, as provided in its articles of incorporation, was or is insufficient to construct its contemplated railroad and which has been, or is, in order to construct the same, required by necessity to increase its capital stock, and may increase its capital stock under the laws of the state or territory of its creation, may file with the Secretary of State of this State, a certified copy of the proceedings of its board of directors and stockholders authorizing such increase, and a certificate of its chief engineer, under oath, showing the estimated cost of its main line, side tracks and permanent improvements in the State, and such corporation shall pay to the Secretary of State one-tenth of one per cent of such estimated cost, and such other fees as required by law, without being required to pay to the State of Oklahoma the fee required under Section 3253.

Sec. 1455, R. L. 1910.

History. L. 1909, p. 152; effective June 10, 1909. Revision: Minor changes in wording.

256. Domestic corporation—increase of capital stock. Every railroad corporation organized under the laws of the Territory of Oklahoma or of the Indian Territory within three years prior to the taking effect of the Constitution of this State, that has complied with the Constitution of this State, and the capital stock of which, as provided in its articles of incorporation, was or is insufficient to construct its contemplated railroad, and which has been or is, in order to construct the same, required by necessity to increase its capital stock, may increase its capital stock under the laws of this State, and may file with the Secretary of State a certified copy of the proceedings of its board of directors and stockholders author-

RAILROADS

izing such increase, and a certificate of its chief engineer, under oath, showing the estimated cost of its main lines, side tracks and permanent improvements in the State, and such corporation shall pay to the Secretary of State one-tenth of one per cent of such estimated cost, without being required to pay to the State of Oklahoma the fee required under Section 3253: Provided, that such corporation shall pay all other fees required by law.

Sec. 1456, R. L. 1917.

History. L. 1909, p. 153; effective June 10, 1909. Revision: Minor changes in language.

257. Must begin work in two years. Every railroad corporation accepting the benefits of this article regarding domestication or increase of stock, organized under the laws of any other state or territory or of the United States, or the Territory of Oklahoma or the Indian Territory, that shall not within two years commence, in good faith, its works as contemplated in its charter, shall forfeit all rights hereunder.

Sec. 1457, R. L. 1917.

History. L. 1909, p. 154; effective June 10, 1909.

258. Cancellation of charter, when. An attested copy of the writing in which any corporation which becomes a domestic corporation hereunder claims a domicile elsewhere than in this State shall be made out forthwith by the clerk of the court in which such writing is filed, and shall be mailed by such clerk to the Secretary of State. When such attested copy is received by said Secretary of State, he shall immediately enter upon the records of his office an order cancelling and annulling all charter rights of such corporation and such corporation shall thereafter enjoy only the privileges of a foreign corporation and shall forfeit all rights hereunder.

Sec. 1458, R. L. 1910.

History. L. 1909, p. 154; effective June 10, 1909.

259. Name of town to be name of station. It shall hereafter be unlawful for any corporation or receiver operating any line of railroad in whole or in part in this State, or any officer, agent or representative of such corporation or receiver, to retain, maintain or establish a name for any railroad station or depot in any incorporated or unincorporated town or city within this State other than the name of the town or city which have, and bears, the name of its post office so given by the United States government.

Sec. 1, Ch. 21, S. L. 1915.

260. Penalty for violation. Any officer, agent or representative of any corporation or receiver operating any line of railroad, in whole or in part, within this State who shall violate the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction therefor shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for such offense, or by confinement in the county jail for not less than thirty (30) days nor more than ninety (90) days or both such fine and imprisonment. Provided, that the venue of

DUTIES GOVERNING OPERATION, ETC.

all suits originating under the provisions of this Act shall be in the county where the station about which the suit occurs is located.

Sec. 2, Ch. 247, S. L. 1915.

261. Railroad must pass through county seat. No railroad hereafter constructed in this State shall pass within a distance of four miles of any county seat without passing through the same and establishing and maintaining a depot therein, unless prevented by natural obstacles such as streams, hills, or mountains: Provided, such town, or its citizens shall grant the right-of-way through its limits and sufficient ground for ordinary depot purposes.

Sec. 14 (230), Art. 9, Const.

262. Intrastate passenger trains—county seat stops. Every company, corporation, lessee, manager or receiver owning or operating a railroad in this State or running into or through this State, upon which railroad, passenger or mixed trains are run, operated or used for conveying passengers from one point in this State to another point therein, for hire, shall stop each train, run, operated, or used for conveying passengers for hire, from one point in the State to another point therein, at the depot at or in each county seat in, by, or through which such train may run, for the purpose of receiving passengers desiring to ride on such trains, or delivering passengers to get off at such station. All trains engaged in intrastate passenger business shall be included in this act, and all trains engaged in interstate passenger business, only, shall not be included in this act.

Sec. 1, Ch. 74, S. L. 1915.

263. Same—penalty. Any company, corporation, lessee or receiver owning or operating a railroad in this State, or running into or through this State, violating the provisions of Section 1 of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding one hundred dollars (\$100.00) for each offense, and each failure to stop any such train engaged in intrastate passenger business at any county seat for the purpose of receiving or discharging passengers shall be and constitute a separate offense.

Sec. 2, Ch. 74, S. L. 1915.

264. Hospitals for employees—Corporation Commission to regulate. All railroad companies operating a line or lines, of railroad in the State of Oklahoma, or any association or corporation which have heretofore collected, are now collecting, or which may hereafter collect fees or sums of money from the employees of such railroad association or corporation, or for the purpose of providing or maintaining hospital service for such employees when sick or injured, shall upon the order of the Corporation Commission of the State of Oklahoma, provide adequate hospital facilities within the State of Oklahoma, for its employees, who may be injured or become sick.

Sec. 1, Ch. 30, S. L. 1915.

265. Regulations—removal of injured from state. Jurisdiction and authority is hereby conferred on the Corporation Commis-

RAILROADS

sion to make investigations, require reports, as to the adequacy of such hospital facilities and condition of funds and by order, require all railroad companies, associations, or corporations operating in the State of Oklahoma, to establish such facilities as in the discretion of the commission may be necessary for the prompt and proper relief and medical attention of such sick and injured employees: Provided, no employee shall be taken out of the State of Oklahoma, for treatment, without the written consent of such employee, or in case such employee shall be incapable to give or refuse such consent, then the company surgeon, if present, or if not present, the co-employees of the sick or injured party, shall be authorized to give such consent, and further that all corporations, companies, associations or firms operating railroads within the State and who shall maintain hospitals without the State, shall be permitted to take all sick and injured employees to the hospital either within or without the State where the first medical or surgical service and attention can be secured.

Sec. 2, Ch. 30, S. L. 1915.

266. Investigations—protection of complainant. The Corporation Commission shall make investigations authorized in Section 2 of this Act, upon its own motion or complaint of an employe of the railroad company, but shall in no case, disclose the name of the employe making the complaint unless authorized to do so by such employe.

Sec. 3, Ch. 30, S. L. 1915.

ARTICLE VIII.

MISCELLANEOUS.

- Sec.
267. Animals in transit.
268. Railway companies to disinfect cars and pens—penalty.
269. Transportation of animals; limitation of time of confinement in cars, boats or vessels; unloading for rest, water and feeding; extension of time on request of owner, etc.; sheep not required to be unloaded in night time.
270. Animals unloaded to be fed and watered by or at expense of owner, etc.; lien for food, care, etc.
271. Penalty for failure to comply with provisions of two preceding sections; provisions for unloading not to apply under certain circumstances.
272. Penalty recoverable by civil action; duty of district attorneys to prosecute.
273. Trespassing on railway trains a misdemeanor.
274. Offenders where tried.
275. Removing or masking signal light.
276. Injuries to railroads.
277. When death ensues therefrom.
278. Railway companies may appoint police.
279. Forging tickets of passage.
280. Larceny of passage ticket.
281. Larceny of securities.
282. Fraudulent bill of lading.
283. Fraudulent warehouse receipts.
284. Same exception.
285. Duplicate receipts or vouchers.
286. Selling goods without consent of holder of bill of lading.
287. Unlawful delivery of goods, what is.
288. When law does not apply.
289. Shipment of dead body.
290. Liquor shipments—home-dry law.
291. Misdemeanor to drink liquor in public places.
292. Railroad conductor has power to arrest.
293. Brakeman engineer or conductor or driver.
294. Misdemeanor for consignee to give order to carrier.
295. Misdemeanor for agent of carrier to deliver liquors.
296. Misdemeanor to transport liquor under false name.
297. Fellow-servants rule abolished when.

MISCELLANEOUS

- 298. Railroad repair tracks to be sheltered.
- 299. Penalty.
- 300. Repairing of steam boilers unlawful, when.
- 301. Liens against railroads.
- 302. Life of lien.
- 303. How enforced.
- 304. Notice.

267. Animals in transit. Any person who carries or causes to be carried in or upon any vessel or vehicle, or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture is guilty of a misdemeanor.

Sec. 2749, R. L. 1910.

History. L. 1905, p. 190; effective March 13, 1905.

268. Railway companies to disinfect cars and pens—penalty.

It shall be the duty of the railway corporations doing business in this State to disinfect the shipping pens and cars used by them in transporting live stock in or through this State, in such manner and at such times and place as the board of agriculture, or one of its inspectors may order and designate; and any such corporation violating any of the provisions of this section shall be liable to a penalty of not less than one hundred dollars and not more than five thousand dollars for each violation of any laws, or any of the rules or regulations of the board of agriculture, or one of said inspectors, to be recovered in a civil action to be prosecuted by the attorney general, or under his direction, in the name of the State of Oklahoma, in the district court of the county in which the capital of the State is located, or in any county where such violation may have occurred.

Sec. 41, R. L. 1910.

History. L. 1897, p. 244; effective March 9, 1897. Revision: Minor changes in language; "Board of Agriculture" substituted for "Live Stock Sanitary Commission." (See also "Board of Agriculture," R. L. 1910.)

269. (Act June 29, 1906, c. 3594, paragraph 1.) Transportation of animals—limitation of time of confinement in cars, boats, or vessels—unloading for rest, water and feeding—extension of time on request of owner, etc.—sheep not required to be unloaded in night-time. No railroad, express company, car company, common carrier other than by water, or the receiver, trustee or lessee of any of them, whose road forms any part of a line of road over which cattle, sheep, swine, or other animals shall be conveyed from one state or territory or the District of Columbia into or through another state or territory or the District of Columbia, or the owners or masters of steam, sailing, or other vessels carrying or transporting cattle, sheep, swine, or other animals from one state or territory or the District of Columbia into or through another state or territory or the District of Columbia, shall confine the same in cars, boats, or vessels of any description for a period longer than twenty-eight consecutive hours without unloading the same in a humane manner, into properly equipped pens for rest, water and feeding, for a period of at least five consecutive hours, unless prevented by storm or by accidental or unavoidable causes which cannot be anticipated or avoided by the exercise of due diligence and foresight: Provided, that upon the written request of the owner or person in

RAILROADS

custody of that particular shipment, which written request shall be separate and apart from any printed bill of lading, or other railroad form, the time of confinement may be extended to thirty-six hours. In estimating such confinement, the time consumed in loading and unloading shall not be considered, but the time during which the animals have been confined without such rest or food or water on connecting roads shall be included, it being the intent of this Act to prohibit their continuous confinement beyond the period of twenty-eight hours, except upon the contingencies hereinbefore stated: Provided, that it shall not be required that sheep be unloaded in the night time, but where the time expires in the night time in case of sheep the same may continue in transit to a suitable place for unloading, subject to the aforesaid limitation of thirty-six hours.

Sec. 8651, U. S. Comp. St. c. 1916.

270. (Act June 29, 1906, c. 3594, paragraph 2.) Animals unloaded to be fed and watered by or at expense of owner, etc.—lien for food, care, etc. Animals so unloaded shall be properly fed and watered during such rest either by the owner or person having the custody thereof, or in case of his default in so doing, then by the railroad, express company, car company, common carrier other than by water, or the receiver, trustee or lessee of any of them, or by the owners or masters of boats or vessels transporting the same, at the reasonable expense of the owner or person in custody thereof, and such railroad, express company, car company, common carrier other than by water, receiver, trustee or lessee of any of them, owners or masters, shall in such case have a lien upon such animals for food, care and custody furnished, collectible at their destination in the same manner as the transportation charges are collected, and shall not be liable for any detention of such animals, when such detention is of reasonable duration, to enable compliance with Section 1 of this Act; but nothing in this section shall be construed to prevent the owner or shipper of animals from furnishing food therefor, if he so desires.

Sec. 8652, U. S. Comp. St. 1916.

271. (Act of June 29, 1906, c. 3594, paragraph 3.) Penalty for failure to comply with provisions of two preceding sections—provisions for unloading not to apply under certain circumstances. Any railroad, express company, car company, common carrier other than by water, or the receiver, trustee or lessee of any of them, or the master or owner of any steam, sailing or other vessel who knowingly and wilfully fails to comply with the provisions of the two preceding sections shall for every such failure be liable for and forfeit and pay a penalty of not less than one hundred nor more than five hundred dollars: Provided, that when animals are carried in cars, boats or other vessels in which they can and do have proper food, water, space and opportunity to rest the provisions in regard to their being unloaded shall not apply.

Sec. 8653, U. S. Comp. St. 1916.

MISCELLANEOUS

272. (Act June 29, 1906, c. 3594, paragraph 4.) Penalty recoverable by civil action—duty of district attorneys to prosecute. The penalty created by the preceding section shall be recovered by civil action in the name of the United States in the circuit or district court holden within the district where the violation may have been committed or the person or corporation resides or carries on business; and it shall be the duty of the United States attorneys to prosecute all violations of this Act reported by the secretary of agriculture or which come to their notice or knowledge by other means.

Sec. 8654, U. S. Comp. St. 1916.

273. Trespassing on railway trains a misdemeanor. Any person, other than a railway employe in the discharge of his duty, who, without authority from the conductor of the train, rides or attempts to ride on top of any car, coach, engine or tender on any railroad in this State, or on the drawheads between the cars, or under cars or truss-rods or trucks, or in any freight car, or on the platform of any baggage car, express car or mail car, on any train in this State, shall be guilty of a misdemeanor.

Sec. 2578, R. L. 1910.

History. L. 1903, p. 155; effective March 16, 1903.

274. Offenders—where tried. Any person charged with a violation of the preceding section may be tried in any county in this State in which such violation may have occurred or may be discovered.

Sec. 2579, R. L. 1910.

History. L. 1903, p. 155; effective March 16, 1903.

275. Removing or masking signal light. Any person who unlawfully masks, alters or removes any light or signal, or wilfully exhibits any false light or signal, with intent to bring any locomotive or any railway car or train or cars into danger, is punishable by imprisonment in the penitentiary not exceeding ten years and not less than three years.

Sec. 2783, R. L. 1910.

History. Dak. 6905; S. 1890, Sec. 2532.

276. Injuries to railroads. Any person who maliciously, wantonly, or negligently, either:

First. Removes, displaces, injures or destroys any part of any railroad or railroad equipment, whether for steam or horse cars, or any track of any railroad, or of any branch or branchway, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture, or any part thereof, attached to or connected with any railroad; or,

Second. Places any obstruction upon the rails or tracks of any railroad, or any branch, branchway, or turnout connected with any railroad, is punishable by imprisonment in the penitentiary not exceeding four years, or in a county jail not less than six months.

Sec. 2756, R. L. 1910.

History. Dak. 6882; S. 1890, Sec. 2501. Revision: "Wantonly or negligently" inserted in first line following "maliciously;" "or railroad equipment" inserted in first subdivision, following "railroad," to carry out the intent of this section.

RAILROADS

277. When death ensues therefrom. Whenever any offense specified in the last section results in the death of any human being, the offender is punishable by imprisonment in the penitentiary for not less than four years.

Sec. 2757, R. L. 1910.

History. Dak. 6874; S. 1890, Sec. 2502.

278. Railway companies may appoint police. Railway companies organized under the laws of this State, or doing business within the State, are hereby authorized and empowered at their own expense to appoint and employ policemen at such stations or other places on the lines of their railroads within this State, as said companies may deem necessary for the protection of their property, and the preservation of order on their premises, and in and about their cars, depots, depot grounds, yards, buildings or other structures; and said policemen shall have power and authority to arrest with or without warrant, any person or persons who shall commit any offense against the laws of this State, or the ordinance of any town, city or other municipality, when such offense shall have been committed upon the premises of said companies, or in and about their cars, depots, depot grounds, yards, buildings, or other structures; and shall also have the authority of sheriffs, constables and peace officers in regard to the arrest and apprehension of any such offenders, in or about the premises or appurtenances aforesaid; but in case of the arrest by said policemen of any person without warrant, they shall forthwith take such offender before some justice of the peace or other magistrate having jurisdiction, and make complaint against said offender according to law. Nothing herein contained shall be construed as restricting the lawful rights, power or privileges of any sheriff, constable or policeman, or peace officer within their respective jurisdiction, and for the official acts of such policeman or policemen the railroad company making such appointment shall be held responsible to the same extent as for the acts of any of its general agents or employes.

Sec. 1441, R. L. 1910.

History. Dak. 3024; S. 1890, Sec. 1078.

Liability for acts of special police officer appointed by public authority. 23 L. R. A. (ns) 289-n; 20 L. R. A. (ns) 481-n.

279. Forging tickets of passage. Any person who, with intent to defraud, forges, counterfeits, or falsely alters any ticket, check or other paper or writing to entitle the holder or proprietor thereof to a passage upon any railroad, or in any vessel or other public conveyance; and any person who, with like intent, sells, exchanges or delivers, or keeps or offers for sale, exchange or delivery, or receives upon any purchase, exchange or delivery any such ticket, knowing the same to have been forged, counterfeited or falsely altered is guilty of forgery in the second degree.

Sec. 2629, R. L. 1910.

History. Dak. 6367, S. 1890, Sec. 2385.

280. Larceny of passage ticket. If the thing stolen is any ticket, or other paper or writing entitling or purporting to entitle the

MISCELLANEOUS

holder or proprietor thereof to a passage upon any railroad, or in any vessel or other public conveyance, the price at which tickets entitling a person to a like passage are usually sold by the proprietors of such conveyance shall be deemed the value of such ticket.

Sec. 2661, R. L. 1910.

History. Dak. 6789; S. 1890, Sec. 2407.

281. Larceny of securities. All the provisions of this article shall apply where the property taken is an instrument for the payment of money, evidence of debt, public security or passage ticket, completed and ready to be issued or delivered, though the same has never been issued or delivered by the makers thereof to any person as a purchaser or owner.

Sec. 2662, R. L. 1910.

History. Dak. 6790; S. 1890, Sec. 2408.

282. Fraudulent bill of lading. Any person being the master, owner or agent of any vessel, or officer or agent of any railroad, express or transportation company, or otherwise being or representing any carrier who delivers any bill of lading, receipt or other voucher, or by which it appears that any merchandise of any description has been shipped on board of any vessel, or delivered to any railroad, express or transportation company or other carrier, unless the same has been so shipped or delivered, and is at the time actually under the control of such carrier, or the master, owner or agent of such vessel, or some officer or agent of such company, to be forwarded as express(ed) in such bill of lading, receipt or voucher, is punishable by imprisonment in the penitentiary not exceeding five years, or by a fine not exceeding one thousand dollars, or both.

Sec. 2710, R. L. 1910.

History. Dak. 6866; S. 1890, Sec. 2494.

Liability of carrier to a bona fide holder upon bill of lading issued by negligence or mistake of agent without delivery of any goods to carrier. 22 L. R. A. (ns) 828-n.

283. Fraudulent warehouse receipts. Any person carrying on the business of a warehouseman, wharfinger or other depository of property, who issues any receipt, bill of lading or other voucher for any merchandise of any description which has not been actually received upon the premises of such person and is not under his actual control at the time of issuing such instrument, whether such instrument is issued to a person as being the owner of such merchandise, or as security for any indebtedness, is punishable by imprisonment in the penitentiary not exceeding five years, or by a fine not exceeding one thousand dollars, or both.

Sec. 2711, R. L. 1910.

History. Dak. 6867; S. 1890, Sec. 2495.

Burden of proof as to bona fides of transferee of warehouse receipts for property secured by fraud. 10 L. R. A. (ns) 891-n.

284. Same—exception. No person can be convicted of any offense under the last two sections by reason that the contents of any barrel, box, case, cask or other vessel or package mentioned in

RAILROADS

the bill of lading, receipt or other voucher, did not correspond with the description given in such instrument of the merchandise received, if such description corresponded substantially with the marks, labels or brands upon the outside of such vessel or package, unless it appears that the accused knew that such marks, labels or brands were untrue.

Sec. 2712, R. L. 1910.

History. Dak. 6868; S. 1890, Sec. 2496.

285. Duplicate receipts or vouchers. Any person mentioned in the first two sections of this article who issued any second or duplicate receipt or voucher of a kind specified in those two sections, at a time while any former receipt or voucher for the merchandise specified in the second receipt is outstanding and uncanceled, with-out writing across the face of the same the word "Duplicate" in a plain and legible manner, is punishable by imprisonment in the penitentiary not exceeding five years, or by a fine not exceeding one thousand dollars, or both.

Sec. 2713, R. L. 1910.

History. Dak. 6869; S. 1890, Sec. 2497.

286. Selling goods without consent of holder of a bill of lading. Any person mentioned in the first two sections of this article, who sells, hypothecates or pledges any merchandise for which any bill of lading, receipt or voucher has been issued by him without the consent in writing thereto of the person holding such bill, receipt or voucher, is punishable by imprisonment in the penitentiary not exceeding five years, or by a fine not exceeding one thousand dollars, or both.

Sec. 2714, R. L. 1910.

History. Dak. 2870; S. 1890, Sec. 2498.

Intent as ingredient of offense by warehouseman selling goods for which he has issued receipt. 27 L. R. A. (ns) 160-n.

287. Unlawful delivery of goods, what is. Any person such as mentioned in the second section of this article, who delivers to another any merchandise for which any bill of lading, receipt or voucher has been issued, unless such receipt or voucher bore upon its face the words "Not negotiable," plainly written or stamped, or unless such receipt is surrendered to be canceled at the time of delivery or unless, in the case of partial delivery, a memorandum thereof is endorsed upon such receipt or voucher, is punishable by imprisonment in the penitentiary not exceeding five years or by a fine not exceeding one thousand dollars, or both.

Sec. 2715, R. L. 1915.

History. Dak. 6871; S. 1890, Sec. 2499.

288. When law does not apply. The last two sections do not apply where property is demanded by virtue of process of law.

Sec. 2716, R. L. 1910.

History. Dak. 6872; S. 1890, Sec. 2500.

289. Shipment of dead body. No railroad or other corporation company shall receive for shipment to any point within the State or to any point without the State the body of a deceased person without there being exhibited to the agent or other employee having charge of the station of said railroad, or other transportation company, a certificate of death from the attending physician, stating the name of the person and the place where such person died, the date and cause of his death, and such general information as may be prescribed by the rules and regulations of the state board of health. Any person, having charge of the internment of a deceased person, who shall violate any of the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum of not less than twenty-five dollars nor more than one hundred dollars, or by confinement in the county jail for not less than thirty days nor more than ninety days.

Sec. 6815, R. L. 1910.

History. L. 1907-8, p. 716. (See also following sections, R. L. 1910.)

290. Liquor shipments—bone dry law. It shall be unlawful for any person in this State to receive directly or indirectly any liquors, the sale of which are prohibited by the laws of this State, from a common or other carrier.

It shall also be unlawful for any person in this State to possess any liquors, the sale of which are prohibited by the laws of this State, received directly or indirectly from a common or other carrier in this State. This section shall apply to such liquors intended for personal use, as well as otherwise, and to interstate as well as intrastate shipments or carriage. Any person violating any provision of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$50.00 nor more than \$500.00 and by imprisonment for not less than thirty days nor more than six months; Provided, however, that scientific institutions, universities and colleges, and bonded apothecaries, druggists, hospitals or pharmacists may receive and possess pure grain alcohol, as provided by the laws of this State, to be used only for such purposes as are prescribed by the laws of this State.

Sec. 1, Ch. 186, S. L. 1917.

291. Misdemeanor to drink liquor in public places. Any person who shall, in any public place, or in or upon any passenger coach, street car, or in or upon any other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, waiting station or room, drink any intoxicating liquor of any kind, or if any person shall be drunk or intoxicated in any public or private road, or in any passenger coach, street car, or any public place or building, or at any public gathering, or if any person shall be drunk or intoxicated and shall disturb the peace of any person, he shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars, nor more than one hundred dollars, or by imprisonment for not less than five days nor more than thirty days, or by both such fine and imprisonment.

Sec. 3623, R. L. 1910.

History. L. 1907-8, p. 608.

RAILROADS

292. Railroad conductor has power to arrest. Every railroad conductor is hereby authorized and empowered to exercise, in any county of this State through which the train in charge of such conductor passes, all the common-law and statutory powers of sheriffs in their respective counties for the purpose of enforcing the provisions of the last preceding section, and to arrest offenders against any such provisions, and in so doing are acting for the State and not as employees of the railroad company. Arrests for offenses against any such provisions may be made by such conductor without warrant; and persons so arrested shall be delivered by him to some justice of the peace, police judge, sheriff, constable or police officer at some station or place within the county in which the offense was committed, for trial as provided by law: Provided, that if the train shall have passed from the county in which such offense was committed, and for which such arrest shall have been made, then said conductor shall deliver the person so arrested to some officer of another county, and he shall be held and delivered to some officer of the county in which the offense was committed and be there held for trial as provided by law; Provided, further, that any railroad conductor who is actually engaged in the discharge of his duty, and makes a legal arrest under the provisions of this section, then and in that case the railroad company employing him shall not be liable for damages to the person or persons for such arrest.

Sec. 3624, R. L. 1910.

History. L. 1907-S, p. 609.

293. Drunken engineer or conductor or driver. Any person who, while in charge as engineer of a locomotive engine, or while acting as conductor or driver upon a railroad train or car, whether propelled by steam or drawn by horses, is intoxicated, is guilty of a misdemeanor.

Sec. 2537, R. L. 1910.

History. Dak. 6665; S. 1890, Sec. 2302.

294. Misdemeanor for consignee to give order to carrier. It shall be unlawful for any person to whom any liquors the sale of which is prohibited by this chapter, shall be consigned, whether consigned to him in his own name or in a fictitious name, to give any other person an order for any such liquors to any railroad company, express company, or other common carrier or to any officer, agent or employee of any railroad company, express company or common carrier, with the intent and for the purpose to enable such other person to get or receive any such liquor for himself or for any other person other than the consignee. Any person violating the provisions of this section shall be guilty of a misdemeanor.

Sec. 3625, R. L. 1910.

History. L. 1907-S, p. 609.

Construed. *Titworth v. State*, 2 Okla. Cr. 268, 191 Pac. 288.

295. Misdemeanor for agent of carrier to deliver liquors. Any officer, agent or employe of the railroad company, express company, or other common carrier, who shall knowingly carry or

MISCELLANEOUS

deliver any liquors, the sale of which is prohibited by this chapter, to or for any person, to be sold, bartered, given away or otherwise furnished in violation of this chapter shall be guilty of a misdemeanor. Any such officer, agent or employee who shall knowingly deliver any such liquors to any person other than the person to whom it is consigned and without a written order in each instance of the consignee thereof, shall be guilty of a misdemeanor.

Sec. 3627, R. L. 1910.

History. L. 1907-8, p. 610.

Construed. *Titsworth v. State*, 2 Okla. Cr. 268, 101 Pac. 288.
Responsibility of carrier for transporting intoxicating liquors. 16 L. R. A. 417-n.

296. Misdemeanor to transport liquor under false name. It shall be unlawful for any railroad or other common carrier, or agent thereof, or any other person, individual or corporate, to ship, receive, transport, carry, handle or deliver any liquors, the sale of which is prohibited by this chapter, under a false or fictitious name or title; and any person who shall knowingly violate any provision of this section shall be deemed guilty of a misdemeanor and all liquors shipped under any such fictitious name or title or to a fictitious person, shall be forfeited to the State.

Sec. 3628, R. L. 1910.

History. L. 1907-8, p. 610.

297. Fellow servants—rule abolished—when. The common law doctrine of the fellow-servant, so far as it affects the liability of the master for injuries to his servant, resulting from the acts or omissions of any other servant or servants of the common master, is abrogated as to every employee of every railroad company and every street railway company or interurban railway company, and of every person, firm, or corporation engaged in mining in this State; and every such employee shall have the same right to recover for every injury suffered by him for the acts or omissions of any other employee or employees of the common master that a servant would have if such acts or omissions were those of the master himself in the performance of a non-assignable duty; and when death, whether instantaneous or not, results to such employee from any injury for which he could have recovered under the above provisions, had not death occurred, then his legal or personal representative, surviving consort or relatives, or any trustee, curator, committee or guardian of such consort or relatives, shall have the same rights and remedies with respect thereto, as if death had been caused by the negligence of the master. And every railroad company and every street railway company or interurban railway company, and every person, firm, or corporation engaged in underground mining in this State shall be liable under this section, for the acts of his or its receivers.

Nothing contained in this section shall restrict the power of the legislature to extend to the employees of any person, firm, or corporation, the rights and remedies herein provided for.

Sec. 36 (254), Art. 9, Const.

See 37 Okla. 754, 133 Pac. 216; 38 Okla. 182, 190, 132 Pac. 659; 39 Okla. 84, 134 Pac. 427; 145 Pac. 786.

RAILROADS

298. Railroad repair tracks to be sheltered. It shall be unlawful for any railroad corporation, or other person, who owns, controls or operates any lines of railroad in the State, to build, construct or repair railroad equipment without first erecting and maintaining at every division point a building or shed over the repair tracks, same to be provided with a floor where such construction or repair is permanently done, so as to provide that all men employed in the construction and repair of cars, trucks, and other railroad equipment, shall be under shelter during snows, sleet, rain, and other inclement weather.

Sec. 3777, R. L. 1910.

History. L. 1909, p. 638; effective June 10, 1909.

299. Penalty. Every person or corporation, or manager, superintendent, foreman or agent of any person or corporation, who shall fail or refuse to comply with the provisions of the preceding section, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, and each day that said person or corporation or its manager, superintendent, foreman or agent shall refuse or fail to comply with the provisions of said section shall constitute a separate and distinct violation thereof.

Sec. 3778, R. L. 1910.

History. L. 1909, p. 639; effective June 10, 1909. Revision: Language made clearer.

300. Repairing of steam boilers unlawful, when. It shall be unlawful for any railroad company or any other person, firm or corporation, using steam boilers, to command, order or permit by themselves or their agents any of their employees to enter any steam boiler, fire-box, or smoke chamber thereto, for the purpose of repairing or cleaning the same or for any other purpose when the same is under steam pressure.

Sec. 3779, R. L. 1910.

History. L. 1907-8, p. 617; effective August 24, 1908. Revision: Made unlawful to permit entering boiler, thus placing an affirmative duty on the employer to keep employes out of such boiler.

See also following Sec. R. L. 1910.

301. Liens against railroads. Every mechanic, builder, artisan, workman, laborer or other person, who shall do or perform any work or labor upon, or furnish any materials, machinery, fixtures or other thing towards the equipment, or to facilitate the operation of any railroad, shall have a lien therefor upon the road-bed, buildings, equipments, income, franchises, and all other appurtenances of said railroad, superior and paramount, whether prior in time or not, to that of all persons interested in said railroad as managers, lessees, mortgagees, trustees, beneficiaries under trusts or owners.

Sec. 3868, R. L. 1910.

History. L. 1907 S, p. 191.

Good furnished contractor for employes and teams as material giving lien on railroad. L. L. R. A. (1907) 509 n.

302. Life of lien. The lien mentioned in the preceding section shall not be effectual unless suit shall be brought upon the claim within one year after it accrued.

Sec. 3869, R. L. 1910.

History. L. 1907 S, p. 191.

NOTE: As to duties of railroads in reference to removal of poles, wires, etc. for house moving on highways, see Ch. 233, S. L. 1917.

PRESIDENT'S PROCLAMATION

303. How enforced. The said lien shall be mentioned in the judgment rendered for the claimant in an ordinary suit for the claim, and may be enforced by ordinary levy and sale under final or other process at law or equity.

Sec. 3870, R. L. 1910.

History. L. 1907-8, p. 494.

304. Notice. A notice of ten days shall be given to the railroad of the existence of a claim or the intended lien which is contemplated under this article.

Sec. 3871, R. L. 1910.

History. L. 1907-8, p. 495.

ARTICLE IX.

Proclamation of the President of the United States taking possession and assuming control of the railroads of the United States.

“By the President of the United States of America:

A proclamation:

“Whereas, the congress of the United States in the exercise of the constitutional authority vested in them by joint resolution of the senate and house of representatives, bearing date April 6, 1917, resolved:

“That the state of war between the United States and the imperial German government which has thus been thrust upon the United States, is hereby formally declared; and that the president be, and he is hereby authorized and directed to employ the entire naval and military forces of the United States and the resources of the government to carry on war against the imperial German government; and to bring the conflict to a successful termination, all of the resources of the country are hereby pledged by the congress of the United States.

“And, by joint resolution bearing date of December 7, 1917, resolved:

“That a state of war is hereby declared to exist between the United States of America and the imperial and royal Austro-Hungarian government; and that the president be and he is hereby authorized and directed to employ the entire naval and military forces of the United State, and the resources of the government to carry on war against the imperial and royal Austro-Hungarian government; and to bring the conflict to a successful termination, all the resources of the country are hereby pledged by the congress of the United States.

“And, whereas, it is provided by section 1 of the act approved August 29, 1916, entitled ‘an act making appropriations for the support of the army for the fiscal year ending June 30, 1917, and for other purposes’ as follows:

RAILROADS

“The president in time of war is empowered, through the secretary of war to take possession and assume control of any system or systems of transportation or any part thereof, and to utilize the same, to the exclusion as far as may be necessary of all other traffic thereon, for the transfer or transportation of troops, war material and equipment, or for such other purposes connected with the emergency as may be needful or desirable.

“And, whereas, it has now become necessary in the national defense to take possession and assume control of certain systems of transportation and to utilize the same to the exclusion as far as may be necessary of other than war traffic thereon, for the transportation of troops, war material and equipment therefor and for other needful and desirable purposes connected with the prosecution of the war;

“Now, therefore, I, Woodrow Wilson, president of the United States, under and by virtue of the powers vested in me by the foregoing resolutions and statute, and by virtue of all other powers thereto me enabling, do hereby, through Newton D. Baker, secretary of war, take possession and assume control at 12 o'clock noon on the twenty-eighth day of December, 1917, of each and every system of transportation and the appurtenances thereof located wholly or in part within the boundaries of the continental United States and consisting of railroads, and owned or controlled systems of coastwise and inland transportation, engaged in general transportation, whether operated by steam or electric power, including also terminals, terminal companies and terminal associations, sleeping and parlor cars, private cars and private car lines, elevators, warehouses, telegraph and telephone lines and all other equipment and appurtenances commonly used upon or operated as a part of such rail or combined rail and water systems of transportation—to the end that such systems of transportation can be utilized for the transfer and transportation of troops, war material and equipment to the exclusion so far as may be necessary of all other traffic thereon; and that so far as such exclusive use be not necessary or desirable, such systems of transportation be operated and utilized in the performance of such other services as the national interest may require and of the usual and ordinary business and duties of common carriers.

“It is hereby directed that the possession, control, operation, and utilization of such transportation systems hereby by me undertaken shall be exercised by and through William G. McAdoo, who is hereby appointed and designated Director General of Railroads. Said director may perform the duties imposed upon him, so long and to such extent as he shall determine, through the boards of directors, receivers, officers and employes of said systems of transportation. Until and except so far as said director shall from time to time by general or special orders otherwise provided, the boards of directors, receivers, officers, and employes of the various trans-

PRESIDENT'S PROCLAMATION

portation systems shall continue the operation thereof in the usual and ordinary course of the business of common carriers, in the names of their respective companies.

“Until and except so far as said director shall from time to time otherwise by general or special orders determine, such systems of transportation shall remain subject to all existing statutes and orders of the interstate commerce commission and to all statutes and orders of regulating commissions of the various states in which said systems or any part thereof may be situated. But any orders general or special, hereafter made by said director, shall have paramount authority and be obeyed as such.

“Nothing herein shall be construed as now affecting the possession, operation and control of street electric passenger railways, including railways commonly called interurbans, whether such railways be or be not owned or controlled by such railroad companies or systems. By subsequent order and proclamation if and when it shall be found necessary or desirable, possession, control or operation may be taken of all or any part of such street railway systems, including subways and tunnels; and by subsequent order and proclamation, possession, control and operation in whole or in part may also be relinquished to the owners thereof of any part of the railroad systems or rail and water systems, possession and control of which are hereby assumed.

“The director shall, as soon as may be after having assumed such possession and control enter upon negotiations with the several companies looking to agreements for just and reasonable compensation for the possession, use and control of their respective properties on the basis of an annual guaranteed compensation, above accruing depreciation and the maintenance of their properties, equivalent, as nearly as may be, to the average of the net operating, income thereof, for the three year period ending June 30, 1917, the results of such negotiations to be reported to me for such action as may be appropriate and lawful.

“But nothing herein contained, expressed or implied, or hereafter done or suffered hereunder, shall be deemed in any way to impair the rights of the stockholders, bondholders, creditors and other persons having interests in said systems of transportation or in the profits thereof to receive just and adequate compensation for the use and control and operation of their property hereby assumed.

“Regular dividends, hitherto declared, and maturing interest upon bonds, debentures, and other obligations, may be paid in due course, and such regular dividends and interest may continue to be paid until and unless the said director shall from time to time otherwise by general or special orders determine; and subject to the approval of the director, the various carriers may agree upon and arrange for the renewal and extension of maturing obligations.

STREET RAILWAYS

"Except with the prior written assent of said director, no attachment by mesne process or on execution shall be levied on or against any of the property used by any of the said transportation systems in the conduct of their business as common carriers; but suits may be brought by and against said carriers and judgments rendered as hitherto until and except so far as said director may by general or special orders, otherwise determine.

"From and after 12 o'clock on said 28th day of December, 1917, all transportation systems included in this order and proclamation shall conclusively be deemed within the possession and control of said director without further act or notice. But for the purpose of accounting said possession and control shall date from 12 o'clock midnight on December 31, 1917.

"In witness, whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

"Done by the president, through Newton D. Baker, secretary of war, in the District of Columbia, this 26th day of December, in the year of Our Lord, 1917, and of Independence of the United States, the one hundred and forty-second.

"WOODROW WILSON.

"NEWTON D. BAKER.

"Secretary of War.

"By the President:

"ROBERT LANSING,

"Secretary of State.

NOTE: Rules and regulations of State Commissions still effective, and recognized by the Director General of Railroads.

CHAPTER III.

Carriers—Street Railways.

ARTICLE I.

GENERAL LAWS.

- Sec. 305. Street railways—local authorities must first consent.
306. Electric railways.
307. Light and power franchises in cities and towns.
308. Franchises legalized.

305. Street railways—local authorities must first consent. No law shall be passed by the legislature granting the right to construct and operate a street railroad within any city, town, or village, or upon any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street railroad.

See 16 C.265, Art. 9, Const.

306. Electric railways. Corporations may be formed under the general railway laws of the State of Oklahoma who shall have the power to use electricity for the propulsion of their cars and rolling stock: Provided, that no surface conductor, third rail or

TELEGRAPHS AND TELEPHONES

other similar device for the transmission of such power, other than for return circuit, shall be used.

Sec. 1482, R. L. 1910.

History. L. 1903, p. 141.

What motive power may be used. 2 L. R. A. (ns) 138-n, 43 Okla. 778, 144 Pac. 617; 38 Okla. 572, 131 Pac. 53; 29 Okla. 571, 119 Pac. 127.

307. Light and power franchises in cities and towns. Such corporations, in addition to the powers exercised by railroad corporations generally, may, with the consent of the authorities of any city or town in the State of Oklahoma located upon or along its lines, construct systems of street railways upon such streets and upon such terms and conditions as may be agreed upon between such corporations and such city or town, and may also accept lighting contracts with such cities or towns, to supply the said cities or towns or the inhabitants thereof with light or electric current for power. Such corporations may also acquire, by purchase or consolidation, plants, franchises, contracts, good will and other property of any existing street railways or lighting company.

Sec. 1483, R. L. 1910.

History. L. 1903, p. 141.

Applied. Tulsa Street Ry. Co. v. State, 26 Okla. 559, 110 Pac. 373.

Municipal power to impose conditions when giving consent to railway in street. 36 L. R. A. 33-n.

Power of municipality, in absence of express legislative authority, to grant franchise for street railway. 22 L. R. A. (ns) 925-n.

38 Okla. 572, 576, 134 Pac. 53; 33 Okla. 737, 127 Pac. 1080; 43 Okla. 778, 144 Pac. 617; 29 Okla. 571, 119 Pac. 127.

308. Franchises legalized. All licenses or franchises heretofore granted to any street railway company authorizing the construction and operation of an electric street railroad in any city in the State of Oklahoma, and which have not become forfeited or lapsed by their terms, are hereby ratified, legalized and confirmed.

Sec. 1484, R. L. 1910.

History. L. 1903, p. 141.

33 Okla. 737, 127 Pac. 1080; 33 Okla. 755, 127 Pac. 1087.

NOTE: As to duty of street railways in reference to removal of poles, wires, etc., for house moving on highways, see Ch. 233, S. L. 1917.

CHAPTER IV.

Carriers of Messages—Telegraph and Telephone.

ARTICLE I.

GENERAL LAWS.

Sec.

309. Telegraph and telephone companies to receive and transmit each other's messages—physical connections to be made.
310. Messages must be delivered.
311. Care required.
312. Duty of telegraph company.
313. Duty of other carriers of messages.
314. Damages.
315. Damages—mental anguish.
316. Separate telephone booths for white and colored—conferring jurisdiction on Corporation Commission.
317. Unlawful to construct telephone lines unless public convenience and necessity demand.
318. Corporation Commission—jurisdiction.
319. Application—Corporation Commission.
320. Repairing lines—maintenance.
321. Telegraph and telephone lines—right of way over lands—railroad property.
322. Injuring telegraph or telephone lines.
323. Injury to pipes or wires.
324. Destroying telegraphic dispatches.
325. Secreting telegraphic dispatches.

TELEGRAPHS AND TELEPHONES

309. Telegraph and telephone companies to receive and transmit each other's messages—physical connections to be made. All telephone and telegraph lines, operated for hire, shall each respectively, receive and transmit each other's messages without delay or discrimination, and make physical connections with each other's lines, under such rules and regulations as shall be prescribed by law, or by any commission created by this Constitution, or any act of the legislature, for that purpose.

Sec. 5 (221), Art. 9, Const.

Only telephone lines operated for hire come under jurisdiction of Corporation Commission. Rural or farmers' lines, operated without charge, not subject to regulation. *Twin Valley Tel. Co. v. Mitchell et al.*, 27 Okla. 388, 113 Pac. 914.

Duty to furnish physical connection and service to local company. G. C. R. T. Company owns and operates a local exchange at P. for hire. P. T. & T. Company owns and operates a local exchange also at P. for hire. Said P. T. & T. Company owns and operates in and through P. a long-distance toll line. **Held** that said P. T. & T. Company must receive and transmit G. C. R. T. Company's long-distance messages for a reasonable and just compensation, without delay or discrimination, and make physical connection with its local exchange, under such reasonable rules and regulations, for the purpose of transmitting to it over its line long-distance messages, as may be prescribed by the Corporation Commission. *P. T. & T. Co. v. State et al.* (Grant Co. case), 38 Okla. 554, 134 Pac. 398.

310. Messages must be delivered. A carrier of messages for reward must deliver them at any place to which they are addressed, or to the persons for whom they are intended.

Sec. 855, R. L. 1910.

History. Dak. 3879; S. 1890, Sec. 512.

311. Care required. A carrier of messages for reward must use great care and diligence in the transmission and delivery of messages. A carrier by telegraph must use the utmost diligence therein.

Sec. 856, R. L. 1910.

History. Dak. 3880; S. 1890, Sec. 513.

A carrier of messages must use great care in transmission and delivery of same. *Blackwell Milling, etc., Co. v. W. U. Tel. Co.*, 17 Okla. 376, 89 Pac. 235; 10 Ann. Cas. 855.

Same—telegraph companies are liable for the full amount of loss sustained by reason of their failure to deliver messages within a reasonable time. *Id.*, 31 Okla. 168, 126 Pac. 216. Mental anguish, negligent delay in delivering message. In the absence of statute, damages not recoverable for mental anguish alone. 28 Okla. 661, 115 Pac. 879, Ann. Cas. 1912-D, 821.

312. Duty of telegraph company. A carrier of messages by telegraph must, if it is practicable, transmit every such message immediately upon its receipt. But if this is not practicable, and several messages accumulate upon his hands, he must transmit them in the following order:

First. Messages from public agents of the United States, or of this State on public business.

Second. Messages intended in good faith for immediate publication in newspapers, and not for any secret use.

Third. Messages giving information relating to the sickness or death of any person.

Fourth. Other messages, in the order in which they were received.

Sec. 857, R. L. 1910.

History. Dak. 3908; S. 1890, Sec. 511.

TELEGRAPHS AND TELEPHONES

This section and section 314 relate to receipt and transmission of messages, and do not attempt to regulate mode, means or time of delivery. *Butner v. W. U. Tel. Co.*, 2 Okla. 234, 37 Pac. 1987.

Same—where message is from outside the state, statute prescribing order of receipt or transmission would be violative of interstate commerce clause of constitution. *Id.*

Same—this statute does not attempt to regulate or interfere with delivery of message sent to another state, but simply prescribes order of transmission and compels acceptance of messages when presented in order named. Not an interference with interstate commerce, and a proper exercise of legislative authority. *Id.*

31 Okla. 415, 121 Pac. 1069.

313. Duty of other carriers of messages. A common carrier of messages, otherwise than by telegraph, must transmit messages in the order in which he receives them, except messages from agents of the United States or of this State on public business, to which he must always give priority. But he may fix upon certain times for the simultaneous transmission of messages previously received.

Sec. 858, R. L. 1910.

History. Dak. 3909; S. 1890, Sec. 542.

314. Damages. Every person whose message is refused or postponed, contrary to the provisions of this article, is entitled to recover from the carrier his actual damages, and fifty dollars in addition thereto.

Sec. 859, R. L. 1910.

History. Dak. 3910; S. 1890, Sec. 543.

This statute is penal and must be strictly construed. Every fact to bring plaintiff within its terms must be stated. *Butner v. W. U. Tel. Co.*, 2 Okla. 234, 37 Pac. 1987.

Form of action—immaterial whether it be for breach of contract, or for a tort. *Id.*

Action for nondelivery—plaintiff must show that message was sent by his agent, or was sent for his benefit, and that carrier had actual or constructive notice that it was so sent for benefit of the sendee. *Id.*

Same—nominal damages not recoverable, because only damages claimed were for mental anguish. *Id.*

Damages for mental pain and suffering alone occasioned by negligence of company in failing to deliver message announcing death of relative, not recoverable. *Id.*

Message signed by agent of undisclosed principal. Principal cannot recover penalty provided by this section. Should be strictly construed. *W. U. Tel. Co. v. Coyle*, 24 Okla. 740, 104 Pac. 367. Following 4 S. D. 463, 57 N. W. 202.

Same—measure of damages is the difference between price that would have been realized had the sale not been prevented and the price which plaintiff, in the exercise of reasonable diligence, would thereafter be able to obtain for the property offered for sale, together with expenses necessarily incurred in consequence of the failure. *Id.*

Similar to South Dakota, Indiana and Ohio. *Id.*

Failure to make sale—evidence that wheat would have been purchased had telegram been delivered, admissible. *W. U. Tel. Co. v. Blackwell M. & E. Co.*, 24 Okla. 535, 103 Pac. 717; 138 Am. St. 893. See same case in 17 Okla. 376, 89 Pac. 235. Following 159 F. 643, 16 L. R. A. (ns) 879; 70 Neb. 251; 91 N. W. 305, 63 L. R. A. 803.

Same—message—notice of contents. If message, though in cipher or technical, apprises company of its importance in a commercial way, company liable in excess of nominal damages. *Id.*

Nondelivery—evidence. 34 Okla. 461, 126 Pac. 234, 42 L. R. A. (ns) 419-n. Ann. Cas. 1914-C, 204-n; exemplary damages, 34 Okla. 468, 126 Pac. 216; mental anguish, 32 Okla. 891, 124 Pac. 305; 31 Okla. 528, 122 Pac. 505, Ann. Cas. 1914-C, 1244-n. Delay in delivery. Mental anguish, 28 Okla. 664, 115 Pac. 879; 30 Okla. 63, 118 Pac. 370.

315. Damages—mental anguish. All telegraph companies doing business in this State for hire shall be liable for damages to any person injured thereby for mental anguish or suffering, even in the absence of bodily injury, or pecuniary loss, for negligence in receiv-

TELEGRAPHS AND TELEPHONES

ing, transmitting or delivering messages; and in all actions of this kind, the jury or court may award such damages as they conclude resulted from the negligence of such telegraph company.

Sec. 1, Ch. 269, S. L. 1915.

ORDER No. 624—OFFICIAL MESSAGES OF PUBLIC OFFICERS GIVEN PREFERENCE.

It is hereby ordered that all telephone and telegraph companies, performing and operating telephone and telegraph lines within the State of Oklahoma, shall give preference to messages or telephone calls put in by the Governor of the State, any member of the Supreme Court, Criminal Court of Appeals, Attorney General, Corporation Commission, Adjutant General, District Judges, Sheriff of any county, member of the Legislature while in session, United States Federal Judges and United States Marshals, when such official states at the time the call is made or message delivered that the same is made on account of urgent official business.

Such messages or telephone calls shall be given preference over all other messages and telephone calls except death messages and serious sickness and personal injuries, or railroad wrecks.

Dated August 16, 1912.

ORDER No. 101—REGULATING CHARGES FOR SERVICE OF ALL TRANSMISSION COMPANIES.

No person, or persons, firm, company, or corporation doing a transmission business by telephone for hire in the State of Oklahoma shall charge a greater or different rate for service, or similar service in effect on October 12, 1908, without first having made application to the Corporation Commission therefor, and submitting to the commission a schedule of the proposed change, which before taking effect shall have the approval of this commission.

Effective November 3, 1908.

ORDER No. 149—REGULATING RATES FOR TRANSMISSION OF MESSAGES OF TELEGRAPH COMPANIES.

Rule No. 1. No telegraph company or combination of telegraph companies doing business in the State of Oklahoma shall charge or collect for the transmission of messages between places within the state a greater charge than was made by such company or companies for such services on the first day of January, 1912, without further order of the Corporation Commission.

Rule No. 2. The receiving clerk or receiving operator must give such aid or explanation as may be necessary to enable a sender to prepare his or her message, and must correctly mark on the face of the message the year, month, day, hour and minute that such message was filed for transmission.

Rule No. 3. In sending a message, the sending operator must observe the following order of transmission: 1. The number of message. 2. The operator's personal signal. 3. The correct and exact filing time as per rule 2. 4. The check of the message. 5. The place from. 6. The address of the message. 7. The body and signature of the message.

Rule No. 4. The receiving operator must show on the face of the message the hour and minute the message was filed at point of origin, in addition to the hour and minute the message was received by him.

Rule No. 5. No extra charge shall be made for delivering a telegraphic message in incorporated cities or towns in this state within a radius of two miles of the office of the delivering company, when such point of final delivery is within the corporate limits of such city or town. Any telegraphic company may, with the consent of the sender or addressee, and when practicable, deliver a message by telephone, and may in such case charge the actual expense of so doing.

Rule No. 6. No independent or uptown telegraphic office where messages are received and transmitted for the public shall be discontinued or abolished without first giving the commission thirty days' notice of the intention to abolish the same. Provided the commission may authorize the discontinuance of an office at any time or upon shorter notice; and provided, further, that this rule shall not apply to offices maintained jointly by telegraph and railroad companies.

Rule No. 7. All rules and regulations of telegraph companies operating in Oklahoma in force and effect on the first day of January, 1912, not changed by the rules and regulations herein prescribed, shall remain in full force and effect until changed by the commission.

TELEGRAPHS AND TELEPHONES

Rule No. 8. That the rates, rules, and regulations prescribed by this order shall apply only to messages moving between points within the state, and shall not be held or construed to apply in any particular to interstate messages.

Rule No. 9. A copy of this order must be printed with twelve-point type and shall be posted in some conspicuous place in each telegraph office in the State of Oklahoma for the information of the public. Two copies of tariffs, rules, and regulations of each telegraph company doing business in Oklahoma must be filed with the commission by each company on or before date this order becomes effective.

Order No. 149 of the Corporation Commission, as herein modified, shall become effective on the 10th day of April, 1912.

316. Separate telephone booths for white and colored—conferring jurisdiction on Corporation Commission. The Corporation Commission is hereby vested with power and authority to require telephone companies in the State of Oklahoma to maintain separate booths for white and colored patrons where there is a demand for such separate booths. The Corporation Commission shall determine the necessity for said separate booths only upon complaint of the people in the town and vicinity to be served after due hearing as now provided by law in other complaints filed with the Corporation Commission.

Sec. 1, Ch. 262, S. L. 1915.

317. Unlawful to construct telephone lines unless public convenience and necessity demand. It shall be unlawful for any person, firm, association or corporation to hereafter construct, build or equip any public telephone, toll or long distance line or lines, or any public telephone exchange or exchanges, or commence operations of any such toll or long distance line or exchange in a field already occupied by some other person, firm, association or corporation engaged in the same business and giving similar service unless there exists a public necessity therefor, or unless the public conveniences requires such construction or operation.

Sec. 1, Ch. 270, S. L. 1917.

318. Corporation Commission—jurisdiction. The Corporation Commission of the State of Oklahoma is hereby vested with the jurisdiction to determine whether or not there exists a public necessity and whether the public convenience requires the construction or operation of such properties.

Sec. 2, Ch. 270, S. L. 1917.

319. Application—Corporation Commission. Before any person, firm, association or corporation shall hereafter commence the construction or operation of any public telephone toll or long distance line or lines, or of any public telephone exchange or exchanges, in this State in a field already occupied by some other person, firm, association or corporation engaged in the same business and giving similar service, such person, firm, association or corporation, shall first apply by petition in writing, to the Corporation Commission for permission to construct or operate, or both construct and operate such properties. Upon the filing of such petition, the Corporation Commission shall fix a day for the hearing thereof and shall at the expense of the applicant cause notice of such hearing to be published for a period of at least two weeks in some newspaper

TELEGRAPHS AND TELEPHONES

of general circulation in the city or town where such construction or operation is proposed or if in more than one city or county, then such notice shall be published in a newspaper of general circulation in each of the cities and counties affected, and in addition thereto, notice shall be given such person, firm, association or corporation occupying such field, by mail or personal service, at least ten days before the hearing of such petition. Upon the hearing of such petition, any person interested may appear and file objections thereto and offer evidence in support thereof, and the commission may summons such other witnesses and require the production of such other evidences as it may deem expedient, and shall have and possess all powers incident and necessary to a full and complete investigation of such petition and the objections thereto. Upon the hearing of such application, if the commission shall find that the petition should be granted, it shall issue under the seal of the Commission; its certificate of public convenience and necessity, and in so doing the commission may impose any reasonable and necessary condition or conditions, and shall fix the time within which the construction or operation of such property shall be commenced and completed. Should the commission find that the certificate should be refused it shall so order. Any party to the proceedings aggrieved by an order of the commission in issuing or refusing such certificate, may appeal to the Supreme Court of Oklahoma, as provided in other cases of appeal from orders of the Corporation Commission.

Sec. 3, Ch. 270, S. L. 1917.

320. Repairing lines—maintenance. Nothing in this act shall prevent the repair, maintenance or reconstruction of existing telephone properties or the addition of necessary circuits to existing lines to accommodate increase in business of the same character. Provided that it is hereby declared unlawful for any telephone company in building, repairing or maintaining any telephone line to cut down, trim, disturb or injure any shade trees on any public road or highway, or on any parkage on any street in any city or town, without first obtaining the consent of the abutting property owners so to do, and in the maintenance of telephone line it is hereby declared unlawful for any telephone company to construct their lines so that the wires or cables shall injure any such shade trees on such road or highway or on any parkage within any city or town.

Sec. 4, Ch. 270, S. L. 1917.

321. Telegraph and telephone lines—right of way over lands—railroad property. There is hereby granted to the owners of any telegraph or telephone lines operated in this State, the right of way over lands and real property in this State, and the right to use public grounds, streets, alleys and highways in this State subject to control of the proper municipal authorities as to what grounds, streets, alleys or highways said lines shall run over or across, and the place the poles to support the wires are located; also the right to condemn and cross over or under, or build their lines along any railroad property

TELEGRAPHS AND TELEPHONES

or right of way, subject to the necessary use of such property or right of way by the railroad company; the right of way over real property granted in this section may be acquired in the same manner and by like proceedings as provided for railroad corporations.

Sec. 1115, R. L. 1910.

History. Dak. 3025; S. 1890, Sec. 1079. Revision: Right of way on railroad right of way provided for telegraph and telephone companies.

Power to authorize construction of telegraph or telephone line along railroad right of way without compensation to railroad company, 29 L. R. A. (ns) 793-n.

ORDER No. 353—TO REGULATE ELECTRIC WIRE CROSSINGS OVER RAILROADS.

All persons, firms or corporations, owning or operating telegraph or telephone lines, electric lines and electric power plants, or any other business requiring the use of wires which cross the tracks of steam or electric railroads, shall construct such wires in accordance with the following rules:

Sec. 1. All poles next to or on either side of such railroad tracks, which sustain wires crossing such railroad tracks, shall be sound timber, cedar or better, with not less than six-inch tops, and placed in the ground to a depth of not less than five feet, of sufficient height so that the wire shall not be less than twenty-five feet above the top of the rail, after allowing for sag, well tamped, braced and guyed, except all poles already constructed which are not braced and guyed except all poles already constructed which are not renewed, except where line is not on a tangent, in which case the same shall be properly guyed and braced within the time required in section 5 of this order.

Sec. 2. All new construction or reconstruction of poles next to and on either side of such railroad tracks, which sustain wires crossing such railroad tracks, shall have a double cross arm of some standard make, to be affixed to the crossing poles with one-half inch through bolts. All cross arms to be braced with iron braces, and locust, hedge or steel pins to be used. All crossings as at present installed where cross arms are not used as provided in section 1 shall be protected by double brackets of standard make attached to the pole with forty and sixty penny nails, and shall be further protected by a guard wire of not less than the size as used on the line, to be securely attached to the pole above and below the bracket. Such protection to be made within the time required by section 5 of this order.

Sec. 3. All such poles shall be located not more than fifty-two feet and not less than ten feet from the nearest rail of any track, and shall cross the track at right angles when practicable. Provided, that the owner of such telegraph or telephone or other wires may, for the purpose of proper clearance, be compelled to construct their wires not higher than twenty-eight feet above the top of the rails of the track, and further, that in case the wires of the railway company are higher than twenty-seven feet above the top of the rails of the track such telegraph or telephone wires may be strung under the wires of said railway company at a height of not less than twenty-five feet, allowing for sag. Provided, electric light wires carrying twenty-three hundred volts or less alternating current, or five hundred and fifty volts or less direct current, shall not be placed lower than twenty-five feet of the top of the rails, and electric wires carrying higher voltage than above specified shall not be placed nearer than thirty feet from the top of the rail, and shall have a clearance of eight feet over any telegraph or telephone wires, and all such electric light and power wires conveying a voltage of over five hundred volts shall be thoroughly insulated and protected by basket guards properly grounded at each pole.

Sec. 4. In all cases where any telegraph, or telephone line has been constructed across any railroad track upon a public highway, the railroad company, in case it may desire to change its lines of wire already constructed, or construct new lines, shall clear such telegraph or telephone wires not less than two feet.

Sec. 5. In all cases where any telegraph or telephone company shall desire to place its wires under the tracks of any railroad company, it shall, at least fifteen days before so doing serve written notice upon the agent of the railroad company at the station nearest the place where such crossing is to be made. The wires, cables, and conduits, used in said crossing shall be placed under the tracks in such a manner as not to be exposed on the surface nearer than eight feet from either rail on either side, and in every case the wires, cables, and conduits used in said crossing shall be placed at least three feet below the bottom of the rails of the track. All work in such construction across the right of way, and placing such wires under the railway tracks shall be in the presence of and under the supervision of an authorized agent of the railway company, and railway companies are requested to have an authorized representative present to supervise such work at the time and place mentioned in the notice. All excavations or other work shall be so made and so conducted as

TELEGRAPHS AND TELEPHONES

not to interfere with the safe operation of trains over said railway tracks, and in no case shall an excavation be left open for a longer period than twelve hours, or during any part of the night time, except the person or company making such excavation for crossing shall, at all times have a watchman present while the same remains open.

The foregoing rules shall not apply to feed or trolley wires of an electric railway, but such wires shall be placed at least twenty-five feet above the tops of the rails of any railway crossed thereby. They shall be carried on or supported from sound cedar trolley poles with not less than seven-inch tops, or suitable iron trolley poles of sufficient height and strength.

The above and foregoing rules and regulations shall be in full force after hearing and publication of order as to all new construction and reconstruction, and as to crossings now installed wherever the same does not clear twenty-three feet above the rails, and otherwise constructed as provided in this order, then such crossings shall be changed to comply with this order within four months from the promulgation of this order. The present poles may be used provided a twenty-three foot clearance can be obtained thereby.

Dated July 15, 1910.

322. Injuring telegraph or telephone lines. Any person who maliciously takes down, removes, injures or obstructs any line of telephone or telegraph or any part thereof, or appurtenance or apparatus therewith connected, or severs any wire thereof, or fraudulently intercepts any message in its passage over such wire, is guilty of a misdemeanor.

Sec. 2762, R. L. 1910.

NOTE: As to duty of telegraph and telephone companies in reference to removal of poles, wires, cables, etc., for house moving on highways, see Ch. 233, S. L. 1917.

323. Injuries to pipes and wires. Any person who wilfully breaks, digs up or obstructs any pipes or mains for conducting gas or water, or any works erected for supplying buildings with gas or water, or any appurtenances or appendages therewith connected, or injures, cuts, breaks down or destroys any electrical light wires, poles or appurtenances, or any telephone or telegraph wires, cable or appurtenances, is punishable by imprisonment in the penitentiary not exceeding three years, or in the county jail not exceeding one year, and by fine of not more than five hundred dollars.

Sec. 2791, R. L. 1910.

History. Dak. 6913; S. 1890, Sec. 2540.

Revision: Telegraph and telephone wires and poles included.

324. Destroying telegraphic dispatches. Any person who discloses the contents of any telegraphic dispatch, or telephone message, or any part thereof addressed to another person, without the permission of such person, except upon the lawful order of a court or the judge thereof, to his loss, injury or disgrace is guilty of a misdemeanor.

Sec. 2787, R. L. 1910.

History. Dak. 6909; S. 1890, Sec. 2536.

Revision: Telephone messages included, as within the contemplation of the section.

325. Secreting telegraphic dispatches. Any person who, having in his possession any telegraphic dispatch addressed to another, maliciously secretes, conceals or suppresses the same, is guilty of a misdemeanor.

Sec. 2788, R. L. 1910.

History. Dak. 6910; S. 1890, Sec. 2537.

PUBLIC UTILITIES

CHAPTER V.

Public Utilities—Heat, Light, Water and Power Companies.

- Article I. Gas, electric, water companies, etc.—general laws.
Article II. Use of highways by heat, light or power companies—right of eminent domain—use of bridges by public service companies.
Article III. Franchises—right of city to engage in business.

ARTICLE I.

GAS, ELECTRIC, WATER COMPANIES, ETC.—GENERAL LAWS.

Sec.

326. Definition of terms—"public utilities."
327. Commission's jurisdiction over public utilities.
328. Implied powers of commission—contempt.
329. Records of public utility business.
330. Orders of commission—scope—right of appeal.
331. Distribution of natural gas—standard meters—municipalities affected.
332. Violations of act—punishment.
333. Fraudulent consumption of gas.
334. Minimum charge prohibited—gas.
335. Penalty.

326. Definition of terms—"public utilities." The term "public utility," as used in this act, shall be taken to mean and include every corporation, association, company, individuals, their trustees, lessees, or receivers, successors or assigns, except cities, towns, or other bodies politic, that now or hereafter may own, operate, or manage any plant or equipment, or any part thereof, directly or indirectly, for public use, or may supply any commodity to be furnished to the public.

(a) For the conveyance of gas by pipe line.

(b) For the production, transmission, delivery, or furnishing of heat or light with gas.

(c) For the production, transmission, delivery or furnishing electric current for light, heat or power.

(d) For the transportation, delivery of furnishing of water for domestic purposes or for power.

The term "commission" shall be taken to mean Corporation Commission of Oklahoma.

Sec. 1, Ch. 93, S. L. 1913.

327. Commission's jurisdiction over public utilities. The commission shall have general supervision over all public utilities, with power to fix and establish rates and to prescribe rules, requirements and regulations, affecting their services, operation, and the management and conduct of their business; shall inquire into the management of the business thereof, and the method in which same is conducted. It shall have full visitatorial and inquisitorial power to examine such public utilities, and keep informed as to their general conditions, their capitalization, rates, plants, equipments, apparatus, and other property owned, leased, controlled or operated, the value

PUBLIC UTILITIES

of same, the management, conduct, operation, practices and services; not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the provisions of this act, and with the Constitution and laws of this State, and with the orders of the commission.

Sec. 2, Ch. 93, S. L. 1913.

328. Implied powers of Commission—contempt. In addition to the powers enumerated, specified, mentioned or indicated in this act, the commission shall have all additional implied and incidental powers which may be proper and necessary to carry out, perform and execute all powers herein enumerated, specified, mentioned, or indicated, and to punish as for contempt such corporation, association, company or individual, their trustees, lessees, receivers, successors and assigns, for the disobedience of its order in the manner provided for punishment of transportation and transmission companies, by the Constitution and laws of this state.

Sec. 3, Ch. 93, S. L. 1913.

329. Records of public utility business. In case of the owner or operator of any public utility is engaged in carrying on any other business in connection with the operation of such public utility, the commission may require the cost of the operation and gross revenues of such joint business to be kept in such form and manner as may be prescribed by the commission so that the cost of the operation and gross revenues of the public utility may be ascertained.

Sec. 4, Ch. 93, S. L. 1913.

330. Orders of Commission—scope—right of appeal. The commission may, from time to time, adopt or promulgate, such orders, rules, regulations or requirements, relative to investigations, inspections, tests, audits, and valuations of the plants and properties relative to inspection and tests of meters as in its judgment may be necessary and proper; provided, that under the provisions of this act, any public utility, corporation, association, company, individual, their trustees, lessees or receivers, successors, or assigns, may appeal from any order or finding or judgment of the Corporation Commission as provided by law in cases tried and heard before said commission of transportation and transmission companies.

Sec. 5, Ch. 93, S. L. 1913.

The foregoing law, chapter 93, Session Laws 1913, is entitled: "An act to extend the jurisdiction of the Corporation Commission over the rates, charges, service and practice of water, heat, light and power companies, and to give said commission general supervision over such utilities, and declaring an emergency."

Corporation Commission—jurisdiction. By chapter 93, Laws, 1913, jurisdiction is conferred upon the Corporation Commission over all public utilities with the power to fix and establish rates and prescribe rules, requirements and regulation affecting their services and operation and the management and conduct of their business, and under the powers thus conferred the commission is vested with authority to make all valid and lawful orders prescribing and making, Gas, Heat, Light, Fuel & Improvement Co. et al. v. Board of Education of City of Guthrie et al., 166 Pac. 428.

Power over public utilities. By chapter 93, Session Laws, 1913, jurisdiction is conferred upon the Corporation Commission over all public utilities with the power to fix and establish rates and prescribe rules, requirements and regulation affecting their services and operation and the management and conduct of their business, and under the power thus conferred, the commission is vested

GAS, ELECTRIC AND WATER COMPANIES, ETC.

with authority to make all valid and lawful orders prescribing rates, which the state, in the exercise of its sovereign capacity, could prescribe or make. *City of Pawhuska v. Pawhuska Oil & Gas Co.*, et al., 166 Pac. 1058.

Power to fix charges for gas in cities. The power to regulate the charges for public services by municipal corporations is the power which it was the intention of the framers of the constitution should be exercised by the sovereign power only. Such power is inherent in the state and is a necessary attribute of sovereignty. No specific authority having been conferred by the constitution upon cities to fix and regulate the charges for gas in municipalities, the Legislature had the right to legislate thereon whenever in its judgment the public interest required such action. The power delegated to the city of Pawhuska to regulate charges for light and gas under section 593, Rev. Laws of Oklahoma, 1910, was such a grant of power as could be taken away from said city by the Legislature and conferred upon the Corporation Commission, as was done by Ch. 93, Session Laws, 1913. The order of the Corporation Commission establishing rates for gas to be charged consumers in the city of Pawhuska by the Pawhuska Oil & Gas Company, and requiring the installation of meters is a valid order under said act, and said order of the commission is not repugnant to section 15, article 2 of the constitution of Oklahoma, nor to section 10, article 1 of the constitution of the United States, 14.

Gas—statutes—validity. Chapter 93, Session Laws 1913, entitled "An act to extend the jurisdiction of the Corporation Commission over the rates, charges, services and practice of water, heat, light and power companies, and to give said commission general supervision over such utilities, and declaring an emergency," is repugnant to and in conflict with that part of section 593, Rev. Laws of Oklahoma, 1910, conferring the power on cities of the first class to regulate by ordinance the prices to be paid for gas or lights, and operates as a repeal thereof. *City of Pawhuska v. Pawhuska Oil & Gas Co.*, et al., 166 Pac. 1058.

Statutes—two statutes covering same subject—later statute governs. Where two statutes cover the same subject and the statute last adopted is repugnant to and irreconcilable with the provisions covering the same subject in the first statute, the latest expression of the legislature will govern. 14.

Gas—charges—order of Corporation Commission—validity. An order of the Corporation Commission requiring that natural gas be furnished to the board of education of the city of Guthrie for heating the public schools, at a rate different and less from that charged to other consumers, is not, by reason of the discrimination in favor of the public schools alone, invalid. *Guthrie Gas, Light, Fuel & Improvement Co.*, et al. v. Board of Education of City of Guthrie et al., 166 Pac. 128.

Gas—charges. The board of education and the gas company entered into a contract under which the board of education installed a system of heating by natural gas in the public schools and the gas company furnished natural gas to the board for heating purposes at a certain rate and maintained that rate for a considerable period of time. Thereafter the rate was changed to a different and higher rate at the request of the supply company from whom the local company obtained the gas and because the rate furnished to the board of education was discriminatory as compared with rates charged to other consumers, and not because the rate granted to the board of education deprived the gas company of a just return upon its investment. **Held**, that the evidence showing these facts was sufficient to justify an order by the Corporation Commission requiring a rate to the board of education different from and less than that charged by the gas company, in the absence of a showing that said rate fixed by the commission, in connection with the rates charged to other consumers, deprived the gas company of a just return upon its investment. 14.

ORDER No. 755—REQUIRING GAS, ELECTRIC AND WATER COMPANIES TO SECURE APPROVAL OF CORPORATION COMMISSION BEFORE ADVANCING RATES.

Each and every person, firm, association or corporation engaged in the business of transporting, distributing or selling natural gas; or manufacturing, distributing, or selling artificial gas; or generating, transmitting, distributing or selling electric current for heat, light or power or pumping, supplying, distributing, or selling water for commercial, domestic, municipal power or irrigation purposes to consumers within the State of Oklahoma, shall file with the Corporation Commission of Oklahoma on or before the first day of December, 1913, a certified copy of their respective rate sheets, schedules and tariffs, of each form of application for service and each form of contract in effect on the first day of August, 1913 pertaining to the transportation, transmission, distribution, pumping, furnishing, supplying or sale of gas, electricity or water.

No such persons, firms, associations or corporations shall, for any utility which they may represent, advance any rate or change the form or forms of applications or contracts without first having submitted such proposed rate or form to the Corporation Commission at least thirty (30) days prior to the proposed effective date thereof; and the same shall not become effective unless and until approved by the Corporation Commission.

Effective November 15, 1913.

PUBLIC UTILITIES

ORDER No. 1028—REQUIRING GAS COMPANIES TO GIVE ADEQUATE SERVICE.

Each and every corporation, association, company, individual, their trustees, lessees, or receivers, successors or assigns, (more particularly described above, Section 1, Chapter 93, Session Laws, 1913), supplying natural gas for domestic consumption, or for the conveyance of gas by pipe line, for the production, transmission, delivery, or furnishing of heat or light with gas, or in any way, directly or indirectly, supplying natural or artificial gas for domestic consumption, is hereby required to so construct and equip and maintain its pipe lines, mains and distributing systems as to be able at all times to furnish an adequate supply of gas for domestic consumption and is hereby ordered to furnish and supply at all times an adequate amount of the proper quality for heating, cooking and lighting, for domestic consumption.

Effective April 20, 1916.

ORDER No. 774—ACCOUNTING ORDER, GAS AND ELECTRIC UTILITIES.

Relating to classification of property, balance sheet, income, and corporate surplus and deficit accounts.

331. Distribution of natural gas—standard meters—municipalities affected. All persons, firms, corporations or other business organizations engaged in the business of furnishing natural gas in municipalities in this state, to the inhabitants thereof, shall do so through standard meters at meter rates; Provided, that this act shall only apply to towns where the population exceeds five hundred, and shall not prohibit the sale of gas at a flat rate to federal, state or municipally owned buildings, institutions or plants; Provided, further, that this act shall not abrogate any existing contract, or effect or change the terms or conditions of any franchise granted by any municipal corporation prior to, and in effect April 28, 1913.

Sec. 1, Ch. 209, S. L. 1915, amending Sec. 1, Ch. 152, S. L. 1913.

332. Violation of act—punishment. Any person, firm, corporation or other business organization who shall violate any of the provisions of this act shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than five dollars nor more than twenty-five dollars, and each day of such violation shall be deemed a separate offense.

Sec. 2, Ch. 152, S. L. 1913.

Deposit for meter—validity of statute. Where, pursuant to Sec. 12, Art. 2, Ch. 26, S. L. 1909, a domestic pipe line corporation was granted a franchise to lay, use, maintain pipes and mains below and on the surface of streets, alleys, etc., of a municipality of more than 500 inhabitants, and where the franchise granted to said company the right to furnish natural gas to its citizens at not to exceed a certain maximum rate for 1,000 cubic feet as registered by standard meters for the measurement of natural gas or at a flat rate at the option of the customer at a certain maximum price, HELD, that an act approved April 28, 1913 (S. L. 1913, p. 309, Ch. 152), requiring said corporation to furnish gas through standard meters at meter rate, was a valid exercise of the police power of the state reserved by Art. 18, Sec. 7, of the Constitution. HELD, further that said company in attempting to conform with the requirements of the act of 1913, by rule and regulations, to require a deposit of \$5 from each customer before installing his meter so as to secure protection thereof and the payment of his gas bill. *Pawhuska Oil & Gas Co. v. City of Pawhuska et al.*, 17 Okla. 211, 118 Pac. 118.

Corporation Commission—Laws of 1915 did not affect powers of Corporation Commission to establish rates. The provision in the act of April 2, 1915 (Laws 1915, Ch. 209, p. 195), "that this act shall not abrogate any existing contract, or effect or change the terms or conditions of any franchise granted by any municipal corporation prior to and in effect April 28, 1913," merely qualifies the direct legislative mandate of that act to "all persons, firms or corporations furnishing gas in all municipalities having a population over five hundred to lay, use, maintain standard meters at meter rates," and does not affect the power of the Corporation Commission under the provision of the Act of March 25, 1913 (Laws 1913, Ch. 93, p. 150), to establish rates not inconsistent with such direct mandate. *City of Pawhuska v. Pawhuska Oil & Gas Co. et al.*, 166, Pac. 1058.

USE OF HIGHWAYS—EMINENT DOMAIN

333. Fraudulent consumption of gas. Any person who, with intent to defraud, makes or causes to be made, any pipe or other instrument or contrivance, and connects the same, or causes it to be connected, with any pipe laid for conducting illuminating gas, so as to conduct gas to a point where the same may be consumed without its passing through the meter providing for registering the quantity consumed, or in any other manner so as to evade paying therefor, and every person who with like intent injures or alters any gas meter, or obstructs its action, is guilty of a misdemeanor.

Sec. 2665, R. L. 1910.

History. Dak. 6794; S. 1890, Sec. 2411.

334. Minimum charge prohibited—gas. That all persons, firms, corporations or other business organizations engaged in the business of furnishing gas in this State, to the inhabitants thereof shall be prohibited from making and maintaining a fixed minimum charge for gas, or for the use of gas meter, or for the inspection of any gas meter used on the premises of any consumer; and providing that the consumer shall be charged only for the number of cubic feet of gas used or consumed as registered by gas meter.

Sec. 1, Ch. 129, S. L. 1917.

335. Penalty. Any person, firm, corporation or other business organization who shall violate any of the provisions of this act shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than Twenty-five (\$25.00) Dollars, nor more than One Hundred (\$100.00) Dollars, for each and every separate offense.

Sec. 2, Ch. 129, S. L. 1917.

ARTICLE II.

USE OF HIGHWAYS BY HEAT, LIGHT OR POWER COMPANIES—RIGHT OF EMINENT DOMAIN—USE OF BRIDGES BY PUBLIC SERVICE COMPANIES.

Sec.

- 336. Right to lay pipes under highways—terms and conditions.
- 337. Corporation Commission given authority to determine controversies.
- 338. Right of eminent domain.
- 339. Roads and highways—bridges—county commissioners—supervision.
- 340. Corporations to pay toll.
- 341. Bridges—use of by public service corporation—bonds, etc.

336. Right to lay pipes under highways—terms and conditions. Any person, firm or corporation organized under the laws of this state, or qualified to do business in this state to furnish light, heat or power by electricity, gas or oil, provided the same shall not apply to interstate pipe lines, shall have the right to use the public roads and highways in this state for the purpose of erecting poles or posts along or across the same, and sustain their wires and fixtures thereon, or to lay under the surface of said roads or highways pipes or conduits for the purpose of selling electricity and gas or either for light, heat or power, upon obtaining the consent of the board of county commissioners of the county or counties in which the public highways are proposed to be used for such purpose, such

PUBLIC UTILITIES

consent to be evidenced by a resolution by such board or boards entered of record, and such resolution shall specifically describe the particular highway or highways to be used and the terms and conditions under which the same are to be used, but said poles and wires and fixtures shall be erected, placed, adjusted or laid and maintained under such rules and regulations as shall be prescribed by the board of county commissioners of the county in which said roads or highways are located. Provided that said board may fix and collect an annual franchise tax, which said tax, when collected, shall be available for the improvement or maintenance of the particular highway covered by such franchise. Provided, further, that nothing herein contained shall be construed to grant the right to use the streets or public places of any city or incorporated town of this state without the consent of such city or incorporated town, as required by Article 18 of the Constitution of this State; and provided, further, that such poles, wires, conduits and equipment shall be erected, placed, adjusted, laid, constructed and maintained so as not to incommode or endanger the public in the use of its roads, highways and thoroughfares. The failure of such corporation to construct or maintain its poles, wires, conduits or equipment upon or under such public highway in complete accord with the rules and regulations prescribed by the board of county commissioners of the county in which said public highway is located, shall ipso facto forfeit the rights of such corporation to the use of such public highway or highways; and such corporation may thereupon be ousted by proper legal proceedings in a court of competent jurisdiction from the use and occupancy of such public highways or highway; and provided, further, that nothing herein contained shall be construed to abridge or affect the rights of abutting property owners along the highway.

Sec. 1, Ch. 230, S. L. 1917.

337. Corporation Commission given authority to determine controversies. The rights herein granted shall not be so exercised as to interfere with the free and ordinary use of public highways or the exercise of the rights of other public utilities lawfully located thereon. In addition to the authority now or hereafter conferred upon the Corporation Commission by the Constitution and laws of this State, said commission shall have authority to hear and determine all complaints and controversies involving any interference with public rights, or the right of other public service concerns in connection with the exercise of the rights and authority herein granted to light, heat and power companies, and fix reasonable terms and conditions to be complied with by the respective parties. Proceedings on complaint under this act shall be upon notice and subject to the right of appeal as in other cases where notice and right of appeal is granted under the laws of this state.

Sec. 2, Ch. 230, S. L. 1917.

338. Right of eminent domain. Any person, firm or corporation organized under the laws of this state, or authorized to do business in this state, to furnish light, heat or power by electricity or

BRIDGES—PUBLIC SERVICE CORPORATIONS

gas, or any other person, association or firm engaged in furnishing light, heat or power by electricity or gas, shall have and exercise the right of eminent domain in the same manner and by like proceedings as provided for railroad corporations by laws of this state.

Sec. 3, Ch. 230, S. L. 1917.

NOTE: As to duty of utilities in reference to removal of wires, etc. for house moving, see Ch. 233, S. L. 1917.

339. Roads and highways—bridges—county commissioners—supervision. Boards of county commissioners in their respective counties shall have the supervision over bridges and the approaches thereto constructed upon public highways within their respective counties which have been erected by the voting of bonds by said county and may permit any public service corporation or corporations to cross any such bridges and the approaches thereto or jointly use any such bridge and the approaches thereto with the public for an adequate consideration, and upon such terms and conditions as may be satisfactory to them in agreement with any such public service corporation; and no public service corporation shall have the right to use or cross any bridge or the approaches thereto located over any stream in Oklahoma, when such bridge or the approaches thereto has been erected by the voting of bonds by the county for that purpose, unless the board of county commissioners shall, by resolution determine that in their judgment the bridge and approaches thereto may be safely so used and without any substantial detriment to the public interests.

Sec. 1, Ch. 237, S. L. 1917.

340. Corporations to pay toll. The board of county commissioners may require any public service corporation, using any such bridge or the approaches thereto, as is described in Section 1 of this act, to pay such toll or rental for the use of such bridge and the approaches thereto as it may agree upon with said public service corporation and may make such agreement and stipulation as to the use of such bridge and the approaches thereto with such corporation as in its judgment shall conserve the public interest:

Provided, however, that no public service corporation shall use any such bridge or the approaches thereto, unless and until it shall have so agreed with such board of county commissioners as to the tolls, rentals and use of such bridge and the approaches thereto and then during such time only as it shall make payment therefor and comply with its contract. Provided, further, that no such agreement shall be made for longer than five years at a time.

Sec. 2, Ch. 237, S. L. 1917.

341. Bridges—use of public service corporation—bonds, etc.

Any public service corporation organized under the laws of the State of Oklahoma, for the operation of any public service business, such as a railroad, car line, telegraph or telephone line, electric transmission line, or toll bridge, may jointly contract with any city, town, township or county, or citizen of same, for the joint construction, maintenance, ownership and use of any bridge or bridge approaches over and across any stream, river, or creek, and

PUBLIC UTILITIES

any such public service corporation may contract with any city, town, township or county for the purchase of such bridge and for the joint ownership and use thereof by the said public service corporation and the public, and the several parties so interested may contract and set aside the part of such bridge or bridges and approaches to be used or maintained by each, and such city, town, township or county may issue and sell bonds, or levy taxes, to pay for the construction or purchase of such bridge or bridges, or interest therein, the same as bonds are issued or taxes levied for other bridge purposes.

Sec. 1, Ch. 240, S. L. 1917 amending Sec. 7633 R. L. 1910, as amended by Sec. 1, Ch. 150, S. L. 1915.

ARTICLE III.

FRANCHISES—RIGHT OF CITY TO ENGAGE IN BUSINESS.

- Sec.
342. Franchise to be granted only when approved by electors—maximum period 25 years.
343. Petition for franchise—twenty-five per centum of electors required—special election to be called thereon.
344. Franchises—restrictions on grant.
345. Municipal corporations may engage in business.
346. Cities may engage in business and acquire public utilities.
347. Authorized to expend funds—ice plants.
348. Incorporation acts and ordinances legalized.
349. Lighting streets.
350. Powers of town board of trustees.

342. Franchise to be granted only when approved by the electors—maximum period 25 years. No municipal corporation shall ever grant, extend, or renew a franchise, without the approval of a majority of the qualified electors residing within its corporate limits, who shall vote thereon at a general or special election; and the legislative body of any such corporation may submit any such matter for approval or disapproval to such electors at any general municipal election, or call a special election for such purposes at any time upon thirty days' notice; and no franchise shall be granted, extended, or renewed for a longer term than twenty-five years.

Sec. 5a (336), Art. 18, Const.

Construed. See Sec. 1, Art. 5, notes.

Exclusive franchise of street railway company. Section referred to. *Tulsa Street Ry. Co. v. Oklahoma, etc., Co.*, 27 Okla. 339, 355, 113, Pac. 189. Cited, 29 Okla. 571, 577, 119 Pac. 127.

343. Petition for franchise—twenty-five per centum of the electors required—special election to be called to vote thereon. Whenever a petition signed by a number of qualified electors of any municipal corporation equal to twenty-five per centum of the total number of votes cast at the next preceding general municipal election, demanding that a franchise be granted, extended, or renewed, shall be filed with the chief executive officer of said corporation, the chief executive officer shall, within ten days thereafter, call a special election, at which he shall submit the question of whether or not such franchise shall be granted, extended, or renewed, and if, at said election, a majority of the said electors voting thereon shall vote for the grant, extension or renewal of such fran-

FRANCHISES

chise, the same shall be granted by the proper authorities at the next succeeding regular meeting of the legislative body of the city.

Sec. 5b (337) Art. 18, Const.

Petition filed with clerk instead of mayor, etc., 28 Okla. 563, 115, Pac. 353.

344. Franchises—restrictions on grant. No grant, extension, or renewal of any franchise or other use of the streets, alleys, or other public grounds or ways of any municipality, shall divest the State, or any of its subordinate subdivisions, of their control and regulation of such use and enjoyment. Nor shall the power to regulate the charges for public services be surrendered; and no exclusive franchise shall ever be granted.

Sec. 7 (339), Art. 18, Const.

Applied. Telephone Co. v. State, etc., 25 Okla. 524, 537, 106, Pac. 962.

Franchise before statehood, after performance by the grantee, is a contract protected by federal constitution against state legislation to impair it, and legislation of municipal bodies created by legislature for purpose of local legislation is legislation by the state. Mitchell et al. v. Tulsa Water, etc., Co., 21 Okla. 243, 249, 95 Pac. 961.

Same construction, if ambiguous, most favorable to the public should be adopted. Id.

"Exclusive" defined. Id.

Waterworks franchise granted before statehood, held to be limited as to exclusive use of streets, where city undertakes after statehood to construct waterworks. Id. Distinguishing 146 U. S. 258, 36 L. Ed. 963.

Franchise—exclusive grant. Must be made in express and unequivocal terms. Town of Sapulpa et al. v. Sapulpa Oil & Gas Co. et al., 22 Okla. 347, 97 Pac. 1007.

Same—construed as any other contract, except that it should be construed strictly against grantee and liberally in favor of grantor. Id.

Cited 33 Okla. 737, 127 Pac. 1080; 38 Okla. 554, 134 Pac. 398; 38 Okla. 572, 577, 134 Pac. 53; 148 Pac. 118.

Applied City of Pawhuska v. Pawhuska Oil & Gas Co., et al., 166 Pac. 1058.

Sec. 7, Art. 18 of the Constitution of Oklahoma, expressly prohibits the surrender by the legislative branch of the state government of the power to regulate the charges for public services.

City of Pawhuska v. Pawhuska Oil & Gas Co., et al. 166 Pac. 1058.

345. Municipal corporations may engage in business. Every municipal corporation within this State shall have the right to engage in any business or enterprise which may be engaged in by a person, firm, or corporation by virtue of a franchise from said corporation.

Sec. 6 (338), Art. 18, Const.

346. Cities may engage in business and acquire public utilities. Every municipal corporation within this State shall have the right to engage in any business or enterprise which may be engaged in by a person, firm or corporation by virtue of a franchise from said corporation, and every city containing a population of more than two thousand inhabitants shall have the right and power to acquire, own and maintain, within or without the corporate limits of such city, real estate for sites and rights of way for public utility and public park purposes, and for the location thereon of water works, electric light and gas plants, hospitals, quarantine stations, garbage reduction plants, pipe lines for the transmission and transportation of gas, water and sewerage, and for any plant for the manufacture of any material for public improvement purposes, public buildings, and for all such purposes shall have the power to exercise the right of

PUBLIC UTILITIES

eminent domain, either within or without the corporate limits of such city, and to establish, lay and operate any such plant or pipe line upon any land or right of way taken thereunder; and shall have and exercise the right to manufacture any material for public improvement purposes, and to barter or exchange the same for other material to be used in public improvements in such city, or to sell the same to other cities for like purposes and for any or all such purposes, in order to raise means to carry out the same, shall have the power to issue and sell bonds, bearing interest not to exceed six per centum per annum, maturing in twenty-five years, and redeemable at will in not less than ten years; and whenever any such public improvement shall have been constructed by means derived from the sale of bonds, as above provided, it shall be the duty of such city to fix the rates charged for service to the public, as nearly as practicable, so as to pay the interest and not less than three per centum per annum on the principal of such bonds in excess of the expense of maintenance and operation: Provided, that whenever it shall be found impractical to issue bonds as above provided for any improvement deemed by such city necessary for the public welfare, without increasing the total indebtedness of such city beyond the constitutional limit, it shall be lawful for such city to lease at a stipulated rental any public improvement or utility from any person, firm or corporation which will contract to furnish the same; provided, further that any such rental contract shall reserve to such city the option to purchase such improvement or utility in future.

Sec. 538, R. L. 1910.

History. L. 1907-8, p. 192; effective May 22, 1908. Revision: Rate of interest on bonds changed from 5 to 6 per cent., the constitutional limit, as there appeared to be no reason for the restriction.

Power to make improvements—water supply. Act Congress 1902, 32 St. 200, authorizing municipalities in Indian Territory to construct water works, not in conflict with Mans. Dig. Sec. 775. *Mitchell et al. v. Tulsa Water, etc.*, Co. 21 Okla. 213, 95 Pac. 961.

Right to engage in enterprise, etc. 51 L. R. A. (ns) 1143. Acting as water companies, etc. 81 Am. St. 486.

Municipal corporations—administrative functions—operation of water plant. Municipal corporations in operating a water plant exercise business and administrative functions, rather than those strictly governmental in their nature, and in the exercise of such functions are governed largely by the same rules applicable to individuals or private corporations engaged in the same business. *Fretz v. City of Edmond et al.* 168 Pac. 800.

Waters and water courses—municipal water plant—equality of rates. Municipal corporations operating water plants are not required to give absolute equality of service or rates, but are only required not to act arbitrarily in exercising the discretion vested in them in such matters, and not to maintain a discrimination between patrons which is essentially unjust. *Fretz v. City of Edmond et al.* 168 Pac. 800.

Waters and water courses—municipal water plant—discrimination. The law against unjust discriminations rests in public policy, and it is not in violation of the public policy of the State, in the absence of specific legislation on the subject to permit discriminations by a municipality in favor of a State institution which redounds to the intellectual, moral, and commercial benefit of the general public resident in such municipality. *Fretz v. City of Edmond et al.* 168 Pac. 800.

Waters and water courses—municipal water plant—discrimination—donation to State institution. Under the facts alleged in the instant case, held, that the donation of water by the City of Edmond to the Central State Normal School does not constitute an unjust discrimination against a citizen, taxpayer, and water consumer of the city who is required to pay a fixed rate for water used by him. *Fretz v. City of Edmond et al.* 168 Pac. 800.

FRANCHISES

347. Authorized to expend funds—ice plants. That all towns in this State having a population of not less than 800 and not more than 900, according to the federal census of 1910, or any federal census hereafter taken, and who voted the sum of \$10,000 for water works extension on March 4, 1915, may, and they are hereby authorized to expend the same for the purpose of erecting and equipping an ice plant for the manufacture and sale of ice by said municipalities.

Sec. 1, Ch. 109, S. L. 1917.

348. Incorporation acts and ordinances legalized. The incorporation prior to the 16th day of November, 1907, of all cities and towns in this State under the laws in force in the territory in which they were respectively located, and all additions made or attempted to be made to any such cities and towns under any such law, and all ordinances of such cities and towns not in conflict with the constitution and laws of the State of Oklahoma, and all official acts done by the officers of such cities and towns in pursuance of such incorporation or attempted incorporation, are declared and made legal, valid and binding, notwithstanding any failure or omission to comply fully and completely with the laws in force at the time of and in relation to such incorporation, addition, act or ordinance of any such city or town; and all cities in any of the territory comprising the State of Oklahoma which were cities under the laws in force in such territory before statehood, or by virtue of any decision, decree or order of court, or which were proclaimed by the Governor of the State of Oklahoma to be cities, shall be and remain cities under the laws of this State: Provided, that this section shall not be construed as legalizing, validating, renewing, extending or granting any franchise for any purpose.

Sec. 426, R. L. 1910.

History. New section, including provisions of L. 1907-8, p. 184 (Sec. 1) and p. 189 (Secs. 1 and 2), all originally effective February 8, 1908.

349. Lighting streets. The council may provide for and regulate the lighting of the streets, the erection of lamp posts, and the council shall have the power to make contracts with and authorize any person, company or association to erect gas or electric works in said city and give such person, company or association the privilege of furnishing gas or electricity to light the streets, lanes and alleys of said city for any length of time, not exceeding twenty-five years. But no such grant shall be so conditioned as to prevent the council from granting to other persons or companies or corporations the right to use the streets for like purposes under the provisions of sections 5a and 5b of article 18 of the Constitution; and all such grants shall be subject at all times to reasonable regulations by ordinance as to the use of streets and prices to be paid for gas or light.

Sec. 593, R. L. 1910.

History. S. 1890, Sec. 615. Revision: Specific reference made to Secs. 5a and 5b, Art. 18, Const., regarding the granting of franchises.

PUBLIC UTILITIES

Franchises exclusive as against all persons attempting to exercise such right without legislative authority. *Bartlesville Electric, etc., Co. v. Bartlesville Interurban Ry. Co.*, 26 Okla. 453, 109 Pac. 228.

See also *Henry et al. v. Bartlesville G. & O. Co.*, 33 Okla. 473, 126 Pac. 725.

Construed in connection with Const. Art. 9, Sec. 18, 35 Okla. 454, 130 Pac. 127.

Construed *City of Pawhuska v. Pawhuska Oil & Gas Co. et al.*, 166 Pac. 1958.

350. Powers of town board of trustees. The board of trustees shall have the following powers, viz.: * * * * *

Nineteenth. To authorize the construction and maintenance of street railways, water mains and water pipes and gas mains and gas pipes, electric lights and telephone wires along or through the streets and alleys within the corporate limits, and to grant rights and franchises to persons, associations or corporations, for such purpose under the provisions of sections 5a and 5b of article 18 of the Constitution; but no exclusive right shall be granted for any such purpose. The streets may be granted on the same terms to all companies desiring to compete with each other in the business of furnishing gas, electricity, telephone accommodations, electric lights, water or street railway accommodations, and all shall be subject to reasonable regulations by ordinance, which ordinance may be changed, at the pleasure of the council.

Sec. 680, R. L. 1910.

History—Power to grant franchises. Cities in Oklahoma Territory have not the right to grant exclusive franchises and privileges to use streets and alleys for gas and electric works. *Ter. ex rel. v. DeWolf et al.*, 13 Okla. 454, 74 Pac. 98. Appeal dismissed in 196 U. S. 643, 49 L. Ed. 632.

Telephone rates—Power to fix rates. Such power not given by subd. 19; 33 Okla. 724, 127 Pac. 1073.

Police regulations—telephone rates. Power on the part of an incorporated city or town to fix municipal telephone rates can only be derived from the Legislature by express grant or by necessary implication from powers expressly granted.

(a) **The Legislature did not**, by subdivision 20 of section 512 of Wilson's Rev. and Ann. St. 1903, grant to the city of Oklahoma City the power of fixing those rates. *Pioneer Tel. & Tel. Co. v. State et al.*, 33 Okla. 724; 124 Pac. 1073.

Same. Where a municipality with no power to fix municipal telephone rates, by ordinance pursuant to subdivision 20 of Sec. 512 of Wilson's Rev. and Ann. St. 1903, granted to a telephone company the right to occupy and use its streets and public ways, subject to certain police regulations, and by Sec. 9 of said ordinance fixed municipal telephone rates, HELD, that said section to that extent is void, although accepted and acted upon between the parties in interest, and is not protected by Art. 9, Sec. 18, of the Constitution, so as to prevent the Corporation Commission from establishing another or different rate pursuant to the same article and section. *Id.*

CHAPTER VI.

Public Utilities—Cotton Gins

- Article I. Regulating gins and ginning of seed cotton—Corporation Commission.
- II. Gimmers and Dealers.
- III. Cotton compresses—weights—records.

ARTICLE I.

REGULATING GINS AND GINNING OF SEED COTTON—CORPORATION COMMISSION.

- § 1. Cotton gins declared public utilities.
- § 2. Gimmers to be licensed.

COTTON GINS

- 353. Power of Corporation Commission—location of gins.
- 354. Regulation of gins.
- 355. Appeals to Supreme Court.
- 356. Regulations—enforcement of orders.
- 357. Validity of several sections—cotton gin law.

351. Cotton gins — declared public utilities. Cotton gins are hereby declared to be public utilities, and the operation of same for the purpose of ginning seed cotton is declared to be a public business.

Sec. 1, Ch. 176, S. L. 1915.

352. Gins to be licensed. No person or persons, or corporation in this state shall be permitted to maintain and operate a gin for the purpose of ginning seed cotton without first having secured a license for such purpose from the State Corporation Commission. The fee for such license to be issued by the Corporation Commission shall be \$1.00 and shall be converted into the State Treasury.

Sec. 2, Ch. 176, S. L. 1915.

353. Power of Corporation Commission—location of gins. The Corporation Commission, in issuing such license, shall have the right to take into consideration the necessity for the operation of a gin for such purpose at the place it is located; provided, nothing herein shall operate to prevent the licensing of gins now established. If the facts disclose that the ginning facilities afforded by gins already licensed are adequate for the reasonable demands of such place for the ginning of cotton, the said Corporation Commission will be justified in refusing such license; provided, that on the presentation of a petition signed by not less than fifty farmer petitioners of the immediate vicinity, the Corporation Commission must issue a license as set out in petition. In addition to said authority, said Commission shall have a right to take into consideration the responsibility, reliability and the qualifications and the capacity of the person or persons, or corporations to do such ginning business as to afford all reasonable facilities, conveniences and services to the public and shall have the power and authority to require such facilities, conveniences and services to be afforded the public.

Sec. 3, Ch. 176, S. L. 1915.

354. Regulation of gins. The Corporation Commission shall have the same power and authority and be charged with the duty of regulating and controlling such cotton gins in all matters relating to the performance of public duties and the charges therefor, and correcting abuses and preventing unjust discrimination and extortion, as is exercised by said commission as to transportation and transmission companies, and shall have the same power to fix rates, rules, charges and regulation to be observed by such person or persons, or corporation, operating gins, and the affording of all reasonable conveniences, facilities and service as it may impose as to transportation or transmission companies.

Sec. 4, Ch. 176, S. L. 1915.

PUBLIC UTILITIES

355. Appeals to Supreme Court. The orders made by said commission fixing rates, charges, rules and regulations as to any person, persons or corporation operating any gin or gins may be reviewed on appeal by the Supreme Court in the same manner, form, jurisdiction and procedure as apply to such orders made relative to transportation and transmission companies.

Sec. 5, Ch. 176, S. L. 1915.

356. Regulations — enforcement of orders. In all matters pertaining to the regulation and control of gins and ginning and the business of such, the commission shall have the same power and authority as is now exercised by it under the law as to any matter pertaining to the public visitation, regulation or control of transportation and transmission companies, and may enforce its orders against any person, firm, company, or corporation maintaining or operating a gin or gins, by imposing a fine against them, or either of them, not exceeding \$100.00 for the violation of any of its orders.

Sec. 6, Ch. 176, S. L. 1915.

357. Validity of several sections—cotton gin law. If it shall be held that any section or part of a section contained in this act is void by reason of it being repugnant to the Constitution, the failure of such portion shall not be held to defeat the remaining portions of this act.

Sec. 7, Ch. 176, S. L. 1915.

ORDER No. 1295.

- (1) All persons, firms or corporations owning or operating cotton gins within the State of Oklahoma, shall file with the Corporation Commission during the month of July report for the year ending the last day of June, last preceding, giving information as prescribed and required by form for annual report of cotton gin utility, prescribed by the commission. (Blanks for reports may be obtained from the commission.)
- (2) Rates and charges for ginning cotton in the State of Oklahoma from and after the effective date of this order shall be as follows:
 - (a) For ginning seed cotton, twenty-two and one-half cents (22½c) per one hundred (100) pounds.
 - (b) For ginning "bollies" forty cents (40c) per one hundred (100) pounds.
 - (c) Charges for bagging and ties shall be twenty per cent. (20 per cent.) above purchase price, f. o. b. destination. (Qualified by Journal Entry of August 31, 1917, as follows: "Until further notice a price of \$1.65 per pattern for standard two-pound bagging and ties will be recognized as a substantial compliance herewith.")The above rates and charges shall be effective unless changed upon proper application to and authority from this commission.
- (3) All persons, firms or corporations operating cotton gins in the State of Oklahoma, from and after effective date of this order, shall hold themselves in readiness to do custom ginning at the rates and charges above prescribed, unless relieved therefrom by order of this commission, upon proper application and showing. (Qualified by Journal Entry of August 31, 1917, as follows: "If the amount of cotton to be ginned at any particular gin does not warrant running the gin regularly, readiness to do custom ginning, during the ginning season one certain regular day each week (such day to be duly advertised in the community served) for each 250 bales of cotton, or majority fraction thereof, ginned during such season, will be recognized as a substantial compliance with Rule (3).")
- (4) All persons, firms or corporations, operating cotton gins in the State of Oklahoma, from and after the effective date of this order, shall perform such ginning service in a proper and workmanlike manner, using due care and diligence in producing a clean product, and in saving for the owner of the cotton the full and fair weight to which he may be justly entitled.
- (5) All persons, firms or corporations operating cotton gins in the state of Oklahoma, from and after the effective date of this order, shall adopt and use a ginning or scale ticket, to be given to the owner of cotton ginned, such ticket to embody and include all the following information:

COTTON GINNERS' AND DEALERS

1. Number of ticket.
2. Name of gin, and owner.
3. Town.
4. Date.
5. Name of grower.
6. Name of driver.
7. Weight of load (gross).
8. Weight of load (tare).
9. Net weight of cotton.
10. Weight of bale.
11. Weight of seed.
12. Price of seed per ton.
13. Amount paid for seed, if bought.
14. Remarks.

Copy of ginning or scale ticket as above prescribed shall be filed with the Corporation Commission with annual report herein required.

This order shall be effective from and after the 7th day of August, 1917.

ARTICLE II.

GINNERS AND DEALERS.

- Sec.
358. Record kept by ginnery.
359. Record kept by ginnery and buyers.
360. Defacing brands or marks.
361. Manager of gin to make report.
362. Penalty for violation.

358. Record kept by ginnery. It shall be the duty of all ginnery or owners of cotton ginnery in this State to brand, number, and place upon each bale of cotton, whether round or square, ginned and baled at their respective ginnery, the name of the ginner and the owner, and the number and weight of the bale so ginned, each ginner beginning with number one each ginning season, and continuing consecutively with each bale ginned to the close of the ginning season; which brand, names and number shall be recorded in a book kept at such gin for that purpose: Provided, that no brands or marks shall be placed on the sample side of any bale of cotton.

Sec. 52, R. L. 1910.

History. New section, drafted from L. 1907-8, p. 430, and L. 1909, p. 15.

359. Record kept by ginnery and buyers. All ginnery and purchasers of cotton shall cause to be kept at their gin or place of business a book, which shall be open for inspection by the public at all reasonable hours, in which shall be registered by the ginner or purchaser, at the time of receiving any cotton, each bale of cotton or load of unginned cotton purchased or received by them, giving all names, numbers and brands that appear thereon, the name of the person from whom purchased or received, the description and amount of the same, the quarter-section of land upon which the same was grown, and by whom it was raised.

Sec. 53, R. L. 1910.

History. New section, drafted from L. 1897, p. 221, and L. 1907-8, p. 430.

360. Defacing brands or marks. It shall be unlawful for any person to deface any brand, number or marks on any cotton bale, or to buy or sell any bale of cotton after the mark, brand or number has been defaced, without having restored the same.

Sec. 54, R. L. 1910.

History. L. 1907-8, p. 430; effective August 24, 1908. Revision: Minor changes in language.

COTTON COMPRESSES—WEIGHTS—RECORDS

361. Manager of gin to make report. The manager of each company, firm, corporation or individual doing a ginning business within this State shall on the first and fifteenth of each month make a correct report in writing to the president of the board of agriculture of the State of Oklahoma of the number of bales of cotton ginned by such concern during such period: Provided, that if the first or fifteenth shall come on Sunday, then said report shall be made on the day previous.

Sec. 55, R. L. 1910.

History. L. 1909, p. 16; effective June 10, 1909. Revision: Minor changes in language.

362. Penalty for violation. Any person who shall fail to comply with the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five nor more than one hundred dollars.

Sec. 56, R. L. 1910.

History. L. 1909, p. 16; effective June 10, 1909.

ARTICLE III.

COTTON COMPRESSES—WEIGHTS—RECORDS

- Sec.
- 363. County Weigher must weigh and record cotton.
- 364. Compensation.
- 365. Scales tested.
- 366. Interested persons present.
- 367. Repeal.
- 368. Violations.

363. County weigher must weigh and record cotton. It shall be the duty of the county weigher of any county of the State of Oklahoma, where there is located a cotton compress or compresses, within thirty days after the final passage of this act, to either perform the following duties himself, or appoint a deputy to perform such duties, under the laws of the State of Oklahoma.

It shall be the duty of said county weigher, or his legalized deputy or deputies, to weigh each and every bale of cotton immediately before the same is compressed, and it shall also be his duty to keep a complete record of the number of bales so weighed, giving the yard and compress number of the same.

Sec. 1, Ch. 186, S. L. 1915.

364. Compensation. The county weigher, or his deputy, shall receive compensation for the weighing of cotton in the sum of five cents for each bale, to be paid by the purchaser or purchasers of said cotton; Provided, that no weigher or deputy weigher shall receive a yearly compensation of more than twelve hundred (\$1,200.00) dollars. Any sum collected by him in excess of said twelve hundred dollars (\$1,200.00) shall be turned in to the salary fund of said county in which said compress or compresses are located.

Sec. 2, Ch. 186, S. L. 1915.

365. Scales Tested. Any interested persons, not satisfied with the weights or weighing, shall have the right to ask the sheriff

CORPORATIONS

of the county in which said cotton compress or compresses are located to test said scales and the sheriff, or his deputy shall immediately upon receipt of such request comply with same.

Sec. 3, Ch. 186, S. L. 1915.

366. Interested Persons Present. Any person, firm or corporation engaged in the cotton business shall have the right to be present at the weighing of any cotton they may purchase or desire to purchase, and when any cotton shall be weighed in their presence they shall accept the weights as being correct and make final settlement on the same.

Sec. 4, Ch. 186, S. L. 1915.

367. Repeal. Section 5 of Chapter 24 of the Session Laws of Oklahoma, of 1913, is hereby repealed.

Sec. 5, Ch. 186, S. L. 1915.

See 40 Okla. 316, 137 Pac. 1183.

368. Violations. Any person, firm or corporation, failing or refusing to comply with this Act shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

Sec. 6, Ch. 186, S. L. 1915.

ORDER No. 642—WEIGHING OF COTTON AT COMPRESSES.

All compresses in the State of Oklahoma shall weigh all cotton accurately and correctly, and the actual weights of each bale shall be set down in one column and the amount the bales are docked, if any, shall be set down in a second column. Each compress shall record these weights in a book and immediately send to the party who guarantees these weights, if known to the compress, a copy of the same to be mailed on the same day the cotton is weighed, and the shipper shall have the right to reweigh the cotton at any time before the same is shipped from the compress by the consignee. Upon receipt of notice by the compress by any party who has guaranteed the weights of cotton, that he desires the same reweighed, the cotton shall not be shipped out until the party making such request shall have had time to reach the compress for the purpose of having the same reweighed.

Oklahoma City, Okla., September 7, 1912.

CHAPTER VII.

Private and Public Service Corporations—General

- Article I. License law—reports to Corporation Commission—fees.
- II. General constitutional provisions—creation of corporations.
- III. Corporate Stock.
- IV. Corporate Powers.
- V. Corporate Records.
- VI. Dissolution of corporations.
- VII. Foreign corporations.
- VIII. Domicile of business concerns—venue of actions.
- IX. Frauds—contributing to political campaigns.
- X. Corporations—employees.

CORPORATIONS

ARTICLE I.

LICENSE LAW—REPORTS TO CORPORATION COMMISSION—FEES.

- Sec.
369. Private corporations—created or licensed only by general law.
370. Corporations to file with commission list of stockholders, officers and directors—residence—amount held by each—foreign corporation to designate agent.
371. Foreign corporations—restrictions.
372. State license required—certain companies excepted.
373. License from Corporation Commission—annual fee.
374. Fees payable, when and where.
375. Annual statement by domestic corporations.
376. Same by foreign corporations.
377. Statements not conclusive.
378. Period of license.
379. Failure to pay fees—penalties.
380. Same.
381. Further penalty.
382. False statement perjury.
383. Filing same subornation of perjury.
384. Corporations—fees of Secretary of State.

369. Private corporations—created or licensed only by general law. No private corporation shall be created nor foreign corporation licensed to conduct business in the State, except by general law.

Sec. 38 (255), Art. 9, Const.

370. Corporations to file with commission list of stockholders, officers and directors—residence—amount held by each—foreign corporation to designate agent. No corporation, foreign or domestic, shall be permitted to do business in this State without first filing in the office of the Corporation Commission a list of its stockholders, officers, and directors, with the residence and postoffice address of, and the amount of stock held by each. And every foreign corporation shall, before being licensed to do business in the State, designate an agent residing in the State; and service of summons or legal notice may be had on such designated agent and such other agents as now are or may hereafter be provided for by law. Suit may be maintained against a foreign corporation in the county where an agent of such corporation may be found, or in the county of the residence of plaintiff, or in the county where the cause of action may arise.

Sec. 13 (260), Art. 9, Const.

Suit on note executed before statehood. Section does not apply. *Cooper v. Ft. S & W R Co.*, 23 Okla. 139, 99 Pac. 785.

Cited construed, etc., 39 Okla. 192, 201, 131 Pac. 949; 146 Pac. 716; 150 Pac. 151, 1026, 31 Okla. 229, 121 Pac. 972; 41 Okla. 643, 139 Pac. 248; 32 Okla. 665, 123 Pac. 128.

Action—venue. 32 Okla. 665, 123 Pac. 428.

Failure to compel, etc. 33 Okla. 266, 121 Pac. 1073.

371. Foreign corporations—restrictions. No foreign corporation shall be authorized to carry on in this State any business which a domestic corporation is prohibited from doing, or be relieved from compliance with any of the requirements made of a similar domestic corporation by the Constitution or laws of the State. Nothing in this article, however, shall restrict or limit the

LICENSE—REPORTS—FEES

power of the Legislature to impose conditions under which foreign corporations may be licensed to do business in this State.

Sec. 44 (261), Art. 9, Const.

372. State license required—certain companies excepted. No corporation incorporated under the laws of this State, or of any other state, shall do or attempt to do business by virtue of its charter or certificate of incorporation in this State without a license therefor: Provided, however, that the provisions of this article shall not apply to railroad companies, car companies, electric railroad companies, telephone and telegraph companies, heat, light and power companies, waterworks, and water power companies, insurance companies, banking or trust companies, building and loan associations; or to any company or corporation not organized for profit.

Sec. 7538, R. L. 1910.

History. L. 1910, p. 99; 41 Okla. 613, 139 Pac. 248.

373. License from Corporation Commission—annual fee. It shall be the duty of every corporation incorporated under the laws of this State, and of every foreign corporation doing business in this State, to procure annually from the Corporation Commission a license authorizing the transaction of such business in this State. Each domestic corporation shall pay a license fee of fifty cents for each one thousand dollars of its authorized capital stock or less, and each foreign corporation shall pay a license fee of one dollar for each one thousand dollars of its capital stock employed in its business done in this State: Provided, that the license fees provided for in this article shall not be required on that portion of its capital stock employed by any corporation in any business upon which a production, income or gross receipts tax is required to be paid under the laws of this State; but any corporation claiming exemption from the payment of the license fees on any portion of its authorized capital shall, in addition to all other statements required by the provisions of this article, file a statement under oath of its president, secretary or other managing officer showing in detail the different kinds of business in which it is engaged, and the portion of its capital employed in that part of its business upon which a production income or gross receipts tax is required to be paid under the laws of this State.

Sec. 7539, R. L. 1910.

JOURNAL ENTRY OF COMMISSION, AUGUST 4, 1917.

1. Section 7539, Revised Laws of Oklahoma, 1910, shall be construed literally and in the exact words and terms in which it is written.

2. Said section 7539, Revised Laws, 1910, shall be strictly enforced and exemptions referred to in the proviso thereto **shall not be allowed except upon such portion of the authorized capital stock as is actually employed and in use, as provided by said law.**

3. Before any claim for exemption from license fees will be considered by the commission, the corporation claiming such exemption shall file a separate statement under oath as provided by said section 7539, Revised Laws of Oklahoma, 1910.

(Forms for statements may be obtained from the commission.)

For cases on gross receipts tax, see: Meyer v. Wells Fargo & Co., 223 U. S. 297, 56 L. Ed. 445, holding gross receipts tax, express business, burden on inter-

CORPORATIONS

state commerce; *Comanche Light & Power Co. v. Nix*, 156 Pac. 293, holding invalid gross revenue tax on public service corporations, following *Meyer, Auditor, v. Wells Fargo & Co.*, supra.

As to gross revenue tax on coal mines operated on Indian land, see: *McAlister-Edwards Coal Co. et al. v. Trapp et al.*, 43 Okla. 510, 141 Pac. 794, same case on appeal 239 U. S. 652, 60 L. Ed. 486.

As to gross production tax on oil and gas, see: Annotations, oil and gas, gross production tax law.

374. Fees payable when and where. The license fees required by this article shall be paid to the state treasurer on or before the first day of August of each year, and shall be applied to the payment of the ordinary expenses of the state government; and no license shall be issued by the Corporation Commission until each such corporation shall file with the Corporation Commission a receipt from the state treasurer, showing the payment of the fee herein provided for: Provided, however, that the incorporating fees now required by law shall be in lieu of the license fees required by this article for the year in which such incorporating fees are paid.

Sec. 7540, R. L. 1910.

History. L. 1910, p. 100.

375. Annual statement by domestic corporations. Every domestic corporation subject to the provisions of this article shall, during the month of July of each year, file in the office of the Corporation Commission a statement under oath of its president, secretary or managing officer, showing the list of its stockholders, officers and directors, with the residence and postoffice address of and the amount of stock held by each, as the same existed on the thirtieth day of June next preceding.

Sec. 7541, R. L. 1910.

History. L. 1910, p. 100.

376. Same by foreign corporations. Every foreign corporation subject to the provisions of this article shall, on or before the thirty-first day of July of each year, file with the Corporation Commission a statement under oath of its president, secretary or managing officer or managing agent in this State, in such form as the Corporation Commission may prescribe, showing the total amount of its authorized capital stock, the number of shares into which it is divided, the name and location of the office or offices of the company and the name of its designated agent for service of process, residing at the capital of this State, a list of its stockholders, officers and directors, giving the residence and postoffice address of and the amount of stock held by each as the same existed on the thirtieth day of June next preceding, the value of property owned and used by the company in the State of Oklahoma and where situate, and the value of property owned and used outside of the State of Oklahoma; the proportion of the capital stock of the company which is represented by property owned and used and by business transacted in this State.

Sec. 7542, R. L. 1910.

History. L. 1910, p. 100.

377. Statements not conclusive. The return made by foreign corporation doing business in this State shall not be conclusive

LICENSE—REPORTS—FEES

as to the proportion of their authorized capital represented by business done in this State, but whenever it shall be made to appear to the Corporation Commission that some other proportion than that shown by the statement returned by such foreign corporation more correctly represents the true proportion of the capital stock represented in this State, they shall, after giving ten days' notice to the designated agent of such foreign corporation in this State, for service of process, proceed to determine such true proportion, and such foreign corporation shall thereupon, subject to the penalties provided in this article, pay a license fee upon the proportion of its capital stock represented by business done in the State as so ascertained and determined by the Corporation Commission.

Sec. 7543, R. L. 1910.

History. L. 1910, p. 101.

378. Period of license. The license tax hereby provided for shall authorize the corporation complying with the provisions of this article to transact its business during the year, or for any fractional part of such year in which such license tax or fee is paid. The term "year" as used in this article shall mean from and including July first to and including June thirtieth, next thereafter.

Sec. 7544, R. L. 1910.

History. L. 1910, p. 101.

379. Failure to pay fees—penalties. Every domestic corporation subject to the provisions of this article, which shall fail to file the annual statement and to pay the annual fees required by the provisions of this article for sixty days after the time provided therefor, shall forfeit its charter; and every foreign corporation failing to file its statement and pay the annual fees within the time required by the provisions of this article, shall forfeit its license and right to do business in this State; but the State shall have and retain a lien upon the assets of every kind and character in this State of every such delinquent corporation, and may enforce such lien in an action brought in the name of the State on the relation of the attorney general or the Corporation Commission in any court of competent jurisdiction in any county of the State where the property of such delinquent corporation may be found.

Sec. 1, Ch. 146, S. L. 1917, amending Sec. 7545, R. L. 1910.

History. L. 1910, p. 101.

380. Same. In all cases of forfeiture under the provisions of this article, the directors or managers in office of any domestic corporation whose charter may be so forfeited, or of any foreign corporation whose right to do business in this State may be so forfeited, are deemed to be trustees of the corporation and all the stockholders and members of the corporation whose power or right to do business is forfeited, and as such trustees shall have full power to settle the affairs of the corporation and to maintain or defend any such corporation, or to take such legal proceedings as may be necessary to finally settle the affairs of said corporations, and such directors or managers as such trustees may be sued in any of the courts

CORPORATIONS

of this State by any person having a claim against any such corporation: Provided, however, that no action pending against any such corporation shall abate, by reason of its forfeiture, but may be prosecuted to final judgment and the same may be enforced by execution with the same force and effect, and in like manner as though no forfeiture had occurred; and Provided, further, that where any judgment has been rendered against any corporation prior to forfeiture of its charter under the provisions of this article, execution may be issued thereon and the property in the hands of its trustees may be levied upon, seized and sold to satisfy the same with like force and effect as though such forfeiture had not occurred.

Sec. 7546, R. L. 1910.

History. L. 1910, p. 102.

381. Further penalty. Any corporation which shall have failed to file the sworn statement and pay the annual license fees required by the provisions of this Act, on or before the first day of August of each year, shall, in addition to the other penalties herein prescribed, be liable to a penalty of ten dollars for each day it shall so fail or refuse to file said statement and pay such fees, which shall be a lien upon all the property and assets of such corporation located in this State, and may be recovered at the suit of the State on the relation of the attorney general or the Corporation Commission in any court of competent jurisdiction of the county where any property or assets of such delinquent is located.

Where it appears to the Corporation Commission that any such delinquent corporation has no established and permanent place of business within the State of Oklahoma, or for other reason it is necessary to the protection of the rights of this State, said commission shall issue a tax warrant in regular form in the amount of penalty prescribed herein for one day's violation of the provisions of this act; and such warrant shall be certified by said commission to its marshal or to the sheriff of any county where property of such delinquent corporation may be located, and such officer shall forthwith take and seize such property of a value sufficient to represent the amount of such warrant, or all such property if not of such value, and shall hold the same in the name of the State pending adjudication of the rights involved herein as prescribed by law. Provided, that upon the seizure of property under authority of this Act, the corporation owning the same may retain or recover possession thereof pending adjudication of the rights involved, upon furnishing good and sufficient bond for the protection of the State, such bond being subject to approval by the officer making or authorized to make such seizure.

Upon adjudication of the rights herein all expenses incident to such seizure and restraint of property shall be included in the costs of such adjudication and charged against such property.

In addition to the other penalties provided in this Act, if any corporation has failed or hereafter shall fail for a period of two (2)

LICENSE—REPORTS—FEES

years to pay the annual State corporation license tax or to make any report required by Chapter 72, Revised Laws, 1910 (372-383), the Corporation Commission shall prepare a list of such corporations and shall publish the same in this State in a newspaper of general circulation in the county where the principal office of the company is located, for a period of three successive issues. And, upon said publication being completed, a proof of publication being filed thereof, with Corporation Commission by such newspaper, said corporation shall thereupon be deemed defunct and inoperative and no longer competent to transact business within the State of Oklahoma; and no notification of such status by the Corporation Commission shall be necessary, and the Secretary of State shall make proper notations in red ink opposite the name of any such corporation in the corporation index books of his office, indicating the status of such defunct and inoperative corporations. Provided, that any such defunct corporations, upon the payment of all such delinquent taxes and fees shall thereupon become reinstated, revived and operative again. Provided, further, that where such reinstatement is not applied for within six months from date of such notification to the Secretary of State such defunct and inoperative corporation shall become legally dead and the records of the Secretary of State and Corporation Commission made to so indicate.

Sec. 2, Ch. 146, S. L. 1917.

382. False statement perjury. Any person who shall make any false oath to any statement or return required to be made under the provisions of this article shall be guilty of perjury.

Sec. 7548, R. L. 1910.

History. L. 1910, p. 103.

383. Filing same subornation of perjury. Any person who shall file with or present to the Corporation Commission any statement under oath required to be made by the provisions of this article, knowing the same to be false, shall be guilty of subornation of perjury.

Sec. 7549, R. L. 1910.

History. L. 1910, p. 103.

384. Corporations—fees of Secretary of State. The Secretary of State shall collect the following fees, viz:

(a) **Fees for filing articles of incorporation.** For filing articles of incorporation and issuing certificates of incorporation, one-tenth of one per cent of the authorized capital stock of such corporation: Provided, that the minimum fee for any such service shall be three dollars; Provided, further, that corporations organizing for religious or charitable purposes exclusively shall only be required to pay a fee of two dollars.

(b) **Fees for issuing license to foreign corporations—affidavit required.** For issuing a license to a foreign corporation to do business in this State, and filing a copy of its charter, a fee of one-tenth of one per cent of the maximum amount of capital invested

CORPORATIONS

by such corporation in the State at any time during the fiscal year such license is issued to any such foreign corporation. Every such foreign corporation shall, upon making application for license to do business in the State, cause to be filed with the Secretary of State, an affidavit of its president, vice-president, or other general managing officer, stating the maximum amount of capital such corporation intends and expects to invest in the State at any time during the current fiscal year, and shall, at the same time, pay to the Secretary of State, one-tenth of one per cent on said amount of capital which such corporation expects or intends to invest in the State during the current fiscal year as shown by said affidavit, but the amount so paid as a fee to the Secretary of State by such corporation shall, in no instance be less than ten dollars.

Affidavit filed each year. Every such corporation shall, between the first day of July and the first day of August, each year, cause to be filed with the Secretary of State an affidavit of its president, vice-president or other managing officers, in which shall be stated and shown the maximum amount of capital any such company had invested in the State at any time subsequent to the issuance to it of such license and the amount of authorized capital stock previously paid upon, and if such amount of capital so invested as shown by said affidavit shall exceed the amount formely paid upon, then such corporation shall, at the time of filing said affidavit, pay to the Secretary of State an additional fee equal to one-tenth of one percent of the amount of such excess capital so invested by such corporation in the State: Provided, that no such corporation shall be required to pay a charter fee upon an amount in excess of its authorized capital, or to file the affidavit provided for herein after it shall have paid a charter fee on its total authorized capitalization.

Such corporations not relieved from payment of license tax to Corporation Commission. Provided, that the foregoing provisions relative to the payment of incorporation fees by foreign corporation is not intended and shall not be construed to relieve such corporations, where applicable, of the payment of the annual license tax to the Corporation Commission as provided in Article 18, Chapter 72, Revised Laws, 1910 (372-383).

Penalty for failure to file annual affidavit. If any such corporation shall fail to file or cause to be filed the second aforesaid affidavit as herein provided, or shall fail to pay as herein provided, to the Secretary of State any additional fee shown to be due by aforesaid affidavit, such corporation shall be subject to a penalty and shall forfeit to the State for each day it so fails to do, the sum of twenty-five dollars per day, which may be recovered in a suit brought therefor by the attorney general, in the name of the State, against such corporation, in any district court of the State.

(c) **Other fees.** For affixing the certificate of the secretary and the seal of the State of Oklahoma, one dollar.

STOCK—WHEN VOID, ETC.

(d) For each commission issued by the Governor and attested by the Secretary of State, one dollar.

(e) For recording any instrument required to be recorded in the secretary's office, per folio, twenty-five cents.

(f) For copy of any paper or document to be paid for by the person demanding the same, for each one hundred words, ten cents.

(g) For each commission issued to the commissioner of deeds in a foreign state or territory, five dollars.

(h) For each service rendered and not specified in this article such fees as are allowed for similar services in other cases.

All of said fees shall be properly accounted for and shall be paid into the state treasury quarterly.

Sec. 1, Ch. 144, S. L. 1917, amending Sec. 3253, R. L. 1910.

ARTICLE II.

GENERAL CONSTITUTIONAL PROVISIONS—CREATION OF CORPORATIONS

Sec.

385. Stock issue—notice of increase.

386. Legislature may alter or annul charter or franchise.

387. A corporation owning stock in a competitive corporation or one engaged in the same kind of business prohibited—exceptions.

388. County or other municipality not to participate in private enterprise—neither stockholder in nor lend its credit nor aid a corporation, association or individual.

389. Corporations creatures of the law.

390. Corporations created by statute.

391. Power reserved to alter.

392. Corporations cannot be attacked collaterally.

393. Must have corporate name.

394. Classes of corporations.

395. Public corporations.

396. Private corporations.

397. Articles of incorporation—officers.

398. Corporations must accept law.

399. Acceptance—how proved.

400. Private corporations may be formed—for what purpose.

401. Corporations validated.

402. Legalizing acts of corporations.

403. Contents of articles of incorporation.

404. Railroads and wagon roads.

405. Amendment of articles.

406. Charters extended.

407. One-third of incorporators must be residents.

408. Certificate to issue.

409. Articles to be recorded.

410. Copy of articles evidence.

411. Not necessary to prove incorporation.

412. Stockholders—members.

413. Stock of minor, insane person or decedent.

414. Married womans' stock.

385. Stock—issue—notice of increase. No corporation shall issue stock except for money, labor done, or property actually received to the amount of the par value thereof, and all fictitious increase of stock or indebtedness shall be void, and the Legislature shall prescribe the necessary regulations to prevent the issue of fictitious stock or indebtedness. The stock and bonded indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting to be held after thirty days' notice given in pursuance of law.

Sec. 39 (256), Art. 9, Const.

36 Okla. 168, 128 Pac. 261.

CORPORATIONS

Corporations—issuance of stock—watered or fictitious stock—consideration. Watered stock, or fictitiously paid-up stock, is stock which is issued as fully paid-up stock, when in fact the whole amount of the par value thereof has not been paid into the treasury of the company. All stock which has been issued as paid-up stock, but the full par value of which has not been paid into the corporation in money or money's worth, is watered to the extent that the par value exceeds the value actually paid into the treasury. Watered stock is, accordingly, stock which purports to represent, but does not represent, in good faith, money paid into the treasury of the company, or money's worth actually contributed to the capital of the concern. *Lee et al. v. Cameron and Paden Oil Co.*, — Okla. —, 169 Pac. 17.

Same—when void. Section 39, article 9 of the constitution of Oklahoma, providing that "No corporation shall issue stock except for money, labor done, or property actually received to the amount of the par value thereof, and all fictitious increase of stock or indebtedness shall be void, * * *" prohibits the issuance by corporations of watered or fictitiously paid-up stock, and a sale of the shares of stock by a corporation for money, labor done, or property actually received of a less value than the par value of said stock is in violation of said constitutional provision and the stock so issued is void. *Id.*

Same—void in hands of innocent purchasers. Stock certificates are void in the hands of all holders if they were issued by the corporation in violation of section 39, article 9 of the constitution, for a consideration less than the par value thereof. *Id.*

Corporations—issuance of stock—consideration—"property received." Under Sec. 39 of Art. 9 of the constitution, which provides that "no corporation shall issue stock except for money, labor done, or property actually received to the amount of the par value thereof, * * *" the right to use a party's name in organizing a corporation, and a method of refining gasoline, which was not patented, which was in use at a number of other places, and which was the result of a method of construction used by the plaintiff wherever he built refineries, is not property actually received to the amount of the par value thereof, for which capital stock of the corporation should be issued. *Webster v. Webster Refining Co. of Okmulgee*, 36 Okla. 168, 128 Pac. 261.

Same. A contract between a corporation and its promoter, providing for the issuance to him of capital stock of the corporation in violation of section 39 of article 9 of the constitution, will not be enforced by the courts; nor will damages be awarded for the breach thereof. *Id.*

386. Legislature may alter or annul charter or franchise.

The Legislature shall have power to alter, amend, annul, revoke, or repeal any charter of incorporation or franchise now existing and subject to be altered, amended, annulled, revoked, or repealed at the time of the adoption of this constitution, or any that may be hereafter created, whenever in its opinion it may be injurious to the citizens of this State, in such manner, however, that no injustice shall be done to the incorporators.

Sec. 47 (261), Art. 9, Const.

Constitutional convention in order to preserve the reservations in Sec. 1211, incorporated this section and included franchises. *Oklahoma City v. Shields*, 22 Okla. 265, 100 Pac. 559. *Citing* 22 Okla. 48, 97 Pac. 590.

Guaranty of bank deposits—legislature sole and exclusive judge to determine whenever exercise of corporate rights are injurious to people. Section construed. *Noble State Bank v. Haskell et al.*, 22 Okla. 48, 97 Pac. 590; affirmed, 219 U. S. 101, 55 L. Ed. 186.

Same—charter may be altered, amended or annulled by legislature. *Id.*

Construction of clause, "in such manner, however," etc. The words are a limitation upon the power of the legislature to revoke, alter, annul, amend or repeal a charter. *Id.*

Cited, construed, etc. 29 Okla. 610, 651, 119 Pac. 117; 38 Okla. 554, 134 Pac. 398, 115 Pac. 375.

387. A corporation owning stock in a competitive corporation or one engaged in the same kind of business prohibited—exceptions. No corporation chartered or licensed to do business in this State shall own, hold or control, in any manner whatever, the stock of any competitive corporation or corporations engaged in the same kind of business, in or out of the State, except such stock as may be pledged in good faith to secure bona fide indebtedness acquired upon foreclosure, execution sale, or otherwise for the

CREATION

satisfaction of debt. In all cases where any corporation acquires stock in any other corporation, as herein provided, it shall be required to dispose of the same within twelve months from the date of acquisition; and during the period of its ownership of such stock it shall have no right to participate in the control of such corporation, except when permitted by order of the Corporation Commission. * * * * *

Sec. 41 (258), Art. 9, Const.

Power to deal in shares of other corporations. 36 Am. St. 131.

388. County or other municipality not to participate in private enterprise—neither stockholder in nor lend its credit nor aid a corporation, association or individual. The Legislature shall not authorize any county or subdivision thereof, city, town, or incorporated district, to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or levy any tax for, or to loan its credit to any corporation, association, or individual.

Sec. 17 (282), Art. 10, Const.

389. Corporations creatures of the law. A corporation is a creature of the law, having certain powers and duties of a natural person. Being created by the law, it may continue for any length of time which the law prescribes.

Sec. 1209, R. L. 1910.

History. Dak. 2889; S. 1890, Sec. 941.

Unincorporated voluntary association—property belongs to the entity. (Before statehood.) Richardson et al. v. Harsha, 22 Okla. 405, 98 Pac. 897.

Same. Such organization is not a partnership or corporation. Id.

Public and private—classified and distinguished in Oklahoma A. & M. College v. Willis et al., 6 Okla. 593, 52 Pac. 921, 40 L. R. A. 677.

Municipal corporations—street paving. Section referred to. Oklahoma City v. Shields, 22 Okla. 265, 100 Pac. 559.

390. Corporations created by statute. A corporation can only be created by general law.

Sec. 1210, R. L. 1910.

History. Dak. 2890; S. 1890, Sec. 945. Revision; Authority to create a corporation by special law taken away by Sec. 38, Art. 9, Const.

Municipal corporations—street paving. Section referred to. Oklahoma City v. Shields, 22 Okla. 265, 100 Pac. 559.

391. Power reserved to alter. Every grant of corporate power is subject to alteration, suspension or repeal, in the discretion of the Legislature.

Sec. 1211, R. L. 1910.

History. Dak. 2891; S. 1890, Sec. 946.

Municipal corporations—street paving. Section referred to. Oklahoma City v. Shields, 22 Okla. 265, 100 Pac. 559.

Still in force, except as amended or repugnant to constitution. Guaranty of bank deposits case. Noble State Bank v. Haskell et al., 22 Okla. 48, 97 Pac. 590; same case, 219 U. S. 104, 55 L. Ed. 186.

Right under reserved power to amend or repeal charter of corporation to change the rights of stockholders as to voting the stock. 22 L. R. A. (ns) 420-n. 38 Okla. 554, 134 Pac. 398; 43 Okla. 778, 144 Pac. 617; 115 Pac. 375.

392. Corporations cannot be attacked collaterally. The due incorporation of any company, claiming in good faith to be a corporation under this chapter, and doing business as such, or its right to exercise corporate powers, shall not be inquired into col-

CORPORATIONS

laterally, in any private suit to which such de facto corporation may be a party; but such inquiry may be had, and action brought, at the suit of the State, in the manner prescribed in civil procedure.

Sec. 1212, R. L. 1910.

History. Dak. 2892; S. 1890, Sec. 947.

Municipal corporations—street paving. Section referred to. *Oklahoma City v. Shields*, 22 Okla. 265, 100 Pac. 559.

Collateral attack not permitted. Section construed. *Higbee v. Aetna Bldg. & Loan Assn.*, 26 Okla. 327, 109 Pac. 236.

393. Must have corporate name. Every corporation must have a corporate name, which it has no power to change unless expressly authorized by law; but the misnomer of a corporation in any written instrument does not invalidate the instrument if it can be reasonably ascertained from it what corporation is intended.

Sec. 1213, R. L. 1910.

History. Dak. 2893; S. 1890, Sec. 948.

394. Classes of corporations. Corporations are either:

First. Public; or,

Second. Private.

Sec. 1214, R. L. 1910.

History. Dak. 2894; S. 1890, Sec. 949.

395. Public corporations. Public corporations are formed or organized for the government of a portion of the State. Such corporations are regulated by local statute.

Sec. 1215, R. L. 1910.

History. Dak. 2895; S. 1890, Sec. 950.

Municipal corporations—street paving. Section referred to. *Oklahoma City v. Shields*, 22 Okla. 265, 100 Pac. 559.

Contains no provision authorizing all public corporations to sue and be sued. *Oklahoma A. & M. College v. Willis et al.*, 6 Okla. 593, 52 Pac. 921; 40 L. R. A. 677.

Subdivisions of a city are not legal entities, and cannot create an indebtedness. No debts can be incurred except by the city. *Martin et al. v. Ter. ex rel. Gray*, 5 Okla. 188, 18 Pac. 196.

396. Private corporations. Private corporations are formed for the purpose of religion, benevolence, education, art, literature or profit; and all corporations not public are private.

Sec. 1216, R. L. 1910.

History. Dak. 2896; S. 1890, Sec. 951.

397. Private corporations may be formed—for what purpose. Private corporations may be formed by the voluntary association of three or more persons upon complying with the provisions of this chapter, for the following purposes, namely:

“Mining, manufacturing, and other industrial pursuits, the construction of railroads, wagon roads, bridges, and street railways, electric light, power and gas plants, water works, irrigating ditches, colleges, seminaries, churches, libraries, benevolent, charitable, literary, educational, scientific and historical associations, building and investment companies, loan, trust and guarantee associations, merchandising, wholesale or retail, or both; for the purpose of locating, laying out, improving townsites, and buying and selling real estate therefor, including the sale and conveyance of the same in lots, subdivision or otherwise, also for the purpose of constructing telegraph

CREATION

and telephone lines and systems; also for the purpose of conducting, carrying on, maintaining and operating automobile races; also for the purpose of conducting, carrying on, maintaining and operating baseball games and other public sports, not prohibited by law, and for the organization and maintenance of commercial clubs and business exchanges, and all such corporations shall have the right to purchase, hold and improve and convey real estate for the purpose of their incorporation, and to transact any and all business connected therewith; also for the purpose of constructing sewers and other municipal improvements, with the additional power of selling their property to municipal corporations where such improvements are located.

Ch. 24, S. L. 1915, amending Sec. 1220, R. L. 1910.

398. Articles of incorporation—officers. The instrument by which a private corporation is formed is called "articles of incorporation," or "certificate of incorporation." And one-third of the officers of such corporations shall be residents of this State.

Sec. 1217, R. L. 1910.

History. Dak. 2897; S. 1890, Sec. 952.

399. Corporations must accept law. In order to constitute a private corporation there must not only be a statutory grant of corporate authority, but an acceptance of that grant by a majority of the corporators, or their agents. The acceptance cannot be conditional or qualified.

Sec. 1218, R. L. 1910.

History. Dak. 2898; S. 1890, Sec. 953.

400. Acceptance—how proved. Except when otherwise expressly provided, the acceptance of a grant of corporate authority may be proved like any other fact.

Sec. 1219, R. L. 1910.

History. Dak. 2899; S. 1890, Sec. 954.

401. Corporations validated. Any corporation heretofore organized or attempted to be organized for any purposes herein specified under the laws of this State, or in any other state or territory, and which has filed a copy of its charter or articles of incorporation in the office of the secretary of state, as required by law, shall have the same power to transact business as if incorporated under the laws of this State, and shall have the privileges, franchises and powers conferred by this chapter, and the acts of such corporations are hereby legalized, confirmed and ratified.

Sec. 1221, R. L. 1910.

History. Dak. 2900; S. 1890, Sec. 955, as amended by L. 1903, p. 137; effective March 11, 1903. Revision: Minor changes in language.

402. Legalizing acts of corporations. The acts of railroad corporations in heretofore acquiring interests in real estate or other property, or in conveying the same, and of other de facto corporations, within the scope of the foregoing section, are hereby confirmed, ratified and legalized: Provided, however, that this section

CORPORATIONS

shall not confer any power to acquire land in the future except such as are expressly conferred by the incorporation laws of the State.

Sec. 1222, R. L. 1910.

History. L. 1903, p. 138; effective March 11, 1903.

403. Contents of articles of incorporation. Articles of incorporation must be prepared setting forth:

First. The name of the corporation.

Second. The purpose for which it is formed.

Third. The place where its principal business is to be transacted.

Fourth. The term for which it is to exist.

Fifth. The number of its directors or trustees, and the names and residences of such of them who are to serve until the election of such officers and their qualifications.

Sixth. If there be a capital stock, its amount and the number of shares into which it is divided.

Sec. 1223, R. L. 1910.

History. Dak. 2902; S. 1890, Sec. 957.

404. Railroads and wagon roads. The articles of incorporation of any railroad or wagon road must also state:

First. The kind of road intended to be constructed.

Second. The place from and to which it is intended to be run, and all the intermediate branches.

Third. The counties through which it is intended to be run.

Fourth. The estimated length and cost of the road.

Sec. 1221, R. L. 1910.

History. Dak. 2903; S. 1890, Sec. 958.

405. Amendment of articles. It shall be lawful for any corporation organized under the laws of the State of Oklahoma, for which a charter has been issued, to amend its articles of incorporation in any particular competent to have been embodied or inserted in the original articles of incorporation of such company. In order to amend its articles of incorporation it shall be necessary for new articles to be filed, signed by all the directors and officers of the company which shall be entitled, "Amended Articles of Incorporation," which amended articles of incorporation as to substance shall fully comply with the provisions of this chapter, and shall contain the amendments desired set forth clearly and specifically; when said articles are so amended as aforesaid they shall be filed with the secretary of state, who shall cause an amended charter to issue, signed by the governor, and attested by the seal of the State, from which date the amendments shall relate back and be considered and be a part of the original articles of incorporation to the same effect as if originally set forth therein; but nothing herein shall be construed as authorizing an increase of the capital stock by amending articles and causing an amended charter to issue.

Sec. 1225, R. L. 1910.

CREATION

406. Charters extended. Any corporation chartered under the laws of this State for manufacturing or merchandising purposes, either or both may extend the time of its existence not exceeding twenty years at any one time, by filing "Amended Articles of Incorporation" under and as provided by Section 1225 of the Revised Laws of 1910, and any corporation so extending its charter shall be subject to and governed by all the provisions of the existing law, and shall pay the charter fee as provided by law for original charter
Sec. 3, Ch. 146, S. L. 1917.

407. One-third of incorporators must be residents. The articles of incorporation must be subscribed by three or more persons, one-third of whom must be residents of this State, and acknowledged by each before some officer authorized to take and certify acknowledgments of conveyances of real property.

Sec. 1226, R. L. 1910.

History. Dak. 2904; S. 1890, Sec. 959.

408. Certificate to issue. Upon the filing of articles of incorporation with the secretary of state, he shall issue to the corporation, over the great seal of the State, a certificate that the articles containing the required statement of facts have been filed in his office; and thereupon the persons signing the articles and their associates and successors shall be a body politic and corporate by the name and for the purposes stated in said articles.

Sec. 1227, R. L. 1910.

History. Dak. 2905; S. 1890, Sec. 960.
149 Pac. 864.

409. Articles to be recorded. Upon the filing of any articles of incorporation, as in the last section prescribed, the secretary of state shall cause the same to be recorded in a book to be kept in his office for that purpose, to be called "The Book of Corporations," with the date of filing.

Sec. 1228, R. L. 1910.

History. Dak. 2906; S. 1890, Sec. 961.

410. Copy of articles evidence. A copy of any articles of incorporation filed in pursuance of this article, and certified by the secretary of state, must be received in all courts and other places as prima facie evidence of the facts therein stated, and of the existence of such corporation.

Sec. 1229, R. L. 1910.

History. Dak. 2907; S. 1890, Sec. 962.

Construed—collateral attack not permitted. Higbee v. Aetna Bldg. & Loan Assn., 26 Okla. 327, 109 Pac. 236.

411. Not necessary to prove incorporation. In all civil actions brought by or against a corporation, it shall not be necessary to prove on the trial of the cause the existence of such corporation, unless the defendant shall in his answer expressly aver under oath that the plaintiff or defendant is not a corporation.

Sec. 1230, R. L. 1910.

History. Dak. 2908; S. 1890, Sec. 963. Revision: "Under oath" inserted following "aver."

Alleging corporate existence; necessity for. See Sec. 4759, note.

CORPORATIONS

Proof of corporate existence. Not required of plaintiff unless expressly denied by defendant. *Leader Printing Co. v. Lowry et al.*, 9 Okla. 89, 108, 59 Pac. 942.

Existence, how shown. 13 L. R. A. 370-n.

Presumption as to incorporation. 14 L. R. A. 410-n.

Estoppel of one corporation to deny existence of other. 13 L. R. A. 779-n.
30 Okla. 347, 129 Pac. 579.

412. Stockholders—members. The owners of shares in a corporation which has a capital stock are called stockholders. If a corporation has no capital stock, the incorporators and their successors are called members.

Sec. 1231, R. L. 1910.

History. Dak. 2909; S. 1890, Sec. 961.

413. Stock of minor, insane person or decedent. The shares of stock of an estate of a minor, or insane person, may, at all elections and meetings of a corporation, be represented by his guardian, and of a deceased person by his executor or administrator.

Sec. 1232, R. L. 1910.

History. Dak. 2910; S. 1890, Sec. 965.

414. Married woman's stock. Shares of stock in corporations held or owned by a married woman may be transferred by her, her agent or attorney, in the same manner as if she were a femme sole; and any proxy or power given by her, touching any shares of stock of any corporation owned by her, is valid and binding the same as if she were unmarried.

Sec. 1233, R. L. 1910.

History. Dak. 2911; S. 1890, Sec. 966.

ARTICLE III.

CORPORATE STOCK.

Sec.

115. Subscription to stock may be enforced.

116. Subscription books.

117. May forfeit stock or recover subscription.

118. Issue and transfer of stock.

119. Excess issue void.

120. Corporation may own its own stock.

121. Dividend belongs to whom.

415. Subscription to stock may be enforced. A subscription to the stock of a corporation about to be formed is to be held for the benefit of the corporation when it is formed and may be enforced by it.

Sec. 1234, R. L. 1910.

History. Dak. 2912; S. 1890, Sec. 967.

Subscription to capital stock—cannot be revoked except on consent of all subscribers, thereto prior to revocation. Section applied. *Chicago Bldg. & Mfg. Co. v. Lyon*, 10 Okla. 701, 61 Pac. 6.

Subscription list—it constitutes no defense to an action for subscription that charter doc. not embody all conditions of subscription list. *Petrie v. Coulter*, 19 Okla. 254, 61 Pac. 1058.

Withdrawal of subscription. 33 L. R. A. 593-n.

Recission for fraud or misrepresentation. 33 L. R. A. 721-n.

Validity of subscription induced by false statements that certain other persons were to invest in the enterprise. 29 L. R. A. (inst.) 477-n.

416. Subscription books. After the secretary of state issues the certificate of incorporation, the directors named in the articles of incorporation must proceed in the manner specified or provided

CORPORATE STOCK

in their by-laws; or, if none, then in such manner as they may by order adopt, to open books of subscription to the capital stock then unsubscribed, and to secure subscriptions to the full amount of the fixed capital; and to collect the same.

Sec. 1235, R. L. 1910.

History. Dak. 2913; S. 1890, Sec. 968. Revision: References to assessments of stock under a former article of this chapter eliminated; that article having been omitted from the laws as in conflict with Sec. 39, Art. IX, Const. (385).

417. May forfeit stock or recover subscription. When a corporation is authorized by the terms of subscription or otherwise, to forfeit stock for nonpayment, it may either forfeit the stock or recover the amount of the subscription, but it cannot do both.

Sec. 1236, R. L. 1910.

History. Dak. 2914; S. 1890, Sec. 969.

418. Issue and transfer of stock. All corporations for profit must issue certificates of stock when fully paid up, signed by the president and secretary. Whenever the capital stock of any corporation is divided into shares, and certificates therefor are issued, such shares of stock are personal property and may be transferred by endorsement by the signature of the proprietor, or his attorney or legal representative and delivery of the certificate; but such transfer is not valid except between the parties thereto, until the same is so entered upon the books of the corporation as to show the names of the parties by and to whom transferred, the number or designation of the shares, and the date of the transfer.

Sec. 1237, R. L. 1910.

History. Dak. 2915; S. 1890, Sec. 970. Revision: Provision that certificates might be issued before full payment stricken as in conflict with Sec. 39, Art. IX, Const. (385).

Shares of stock personal property and may be transferred by endorsement and delivery. Section construed and applied. *First National Bank v. Stribling et al.* 16 Okla. 41, 86 Pac. 512.

Same—provision that stock transferable on books only, on surrender of certificates, binding on corporation, and it cannot reissue stock without complying with this provision. *Id.*

Transfer of stock—under this statute, to make an absolute transfer of stock certificates, there must be an endorsement, signing and delivery. *Haynes v. Brown*, 18 Okla. 389, 89 Pac. 1124.

Same—in action for purchase price of stock, delivery, or offer to deliver and refusal to accept, and tender of certificates, are necessary allegations. *Id.*

Bank stock—sale—estoppel. A stockholder, having certain warrants, inadvertently intermingled with assets of bank at time of sale of stock, is not, as against bank suing thereon as owner, estopped to set up title thereto, either before or after conversion into a national bank. *People's National Bank et al. v. Board et al.*, et al., 24 Okla. 145, 104 Pac. 55. Citing 29 Kan. 329, 14 Am. Rep. 646.

Shares of stock—personal property—subject to transfer, as between vendor and vendee by endorsement and delivery of certificate. *Van Cise v. Merchants National Bank*, 4 Dak. 485, 33 N. W. 897.

419. Excess issue void. A corporation whose capital is limited by its charter, either in amount or in number of shares, cannot issue valid certificates in excess of the limit thus prescribed.

Sec. 1238, R. L. 1910.

History. Dak. 2916; S. 1890, Sec. 971.
39 Okla. 509, 135 Pac. 730.

420. Corporation may own its stock. A corporation may purchase, hold and transfer shares of its own stock, from its surplus profits, or by the unanimous consent in writing of all its stock-

CORPORATIONS

holders, in such manner and for such price or consideration as the said stockholders may unanimously decide upon.

Sec. 1239, R. L. 1910.

History. Dak. 2917; S. 1890, Sec. 972. Revision: Reference to the "article on assessments" stricken, as that article has been eliminated as conflicting with Sec. 39, Art. IX, Const. (385).

Right of corporation to purchase its own shares of stock, 25 L. R. A. (ns) 50-n; 30 L. R. A. (ns) 694-n; 61 L. R. A. 621-n.

Power of corporation to deal in the stock of other corporations or in its own, 18 L. R. A. 252-n.

421. Dividend belongs to whom. A dividend belongs to the person in whose name the stock stands upon the books of the corporation on the day when it becomes payable.

Sec. 1240, R. L. 1910.

History. Dak. 2918; S. 1890, Sec. 973.

Right to dividends on transfer of stock, 45 L. R. A. 392-n.

Pledgee's right to dividends, 12 L. R. A. 783-n.

ARTICLE IV.

CORPORATE POWERS

Sec.

- 422. Powers of corporations.
- 423. Corporations prohibited from acquiring or holding land—exceptions.
- 424. Land companies.
- 425. Disposition of surplus realty.
- 426. Same—Escheat land illegally held by corporations.
- 427. Statements by Corporation Officers—record.
- 428. Applies to all corporations.
- 429. Punishment for failure to file.
- 430. Must adopt by-laws.
- 431. What by-laws may provide.
- 432. Certificate and record of by-laws.
- 433. Election of directors.
- 434. Same.
- 435. Same.
- 436. Number of directors and their powers.
- 437. Directors to elect officers.
- 438. Dividends—liability of directors.
- 439. False representation by officer.
- 440. Removal of directors.
- 441. Quorum of stockholders—proxies.
- 442. Postponed elections.
- 443. Complaint on election.
- 444. Place of meetings.
- 445. Calls by whom made.
- 446. Same—vacancy.
- 447. Individual liability of stockholders.
- 448. Written consent to meeting.
- 449. Transfer of stock to non-residents.
- 450. Change in capital stock.

422. Powers of corporations. Every corporation formed under the laws of this State has power as such:

First. To have succession by its corporate name, for the period limited in its charter unless such charter be altered or amended as provided by law; and, when no period is limited, perpetually.

Second. To sue and be sued; to complain and defend in any court.

Third. To make and use a common seal, and alter the same at pleasure.

Fourth. To purchase, hold, transfer and convey such real and personal property as may be necessary and proper for carrying on the business of the corporation and to sell and dispose of the same when not required for the use of the corporation.

CORPORATE POWERS

Fifth. To appoint such subordinate officers and agents as the business of the corporation may require, and to allow them suitable compensation.

Sixth. To make by-laws not inconsistent with the law of the land, for the management of its property, the regulation of its affairs, and for the transfer of its stock.

Title to assets—transfer of stock. Title is in corporation, and not in stockholders, and upon a transfer of stock title to assets remains unaffected. *People's National Bank et al. v. Board et al.*, 24 Okla. 145, 104 Pac. 55.

Seventh. To admit stockholders or members, and to sell their stock or shares for the payment of indebtedness to the corporation.

Eighth. To enter into any obligations or contracts essential to the transaction of its ordinary affairs, or for the purposes of the corporation.

Contract—ratification by board of directors. Section construed and applied. *Derr et al. v. Fisher et al.*, 22 Okla. 126, 98 Pac. 978.

In addition to the above enumerated powers, and to those expressly given in any other statute, no corporation shall possess or exercise any corporate powers, except such as are necessary to the exercise of the powers enumerated and given.

Sec. 1241; R. L. 1910.

History. Dak. 2219; S. 1890, Sec. 974. Revision: Section limited in application to corporations "formed under the laws of this State"; explanatory clause inserted in second paragraph, following "limited"; fourth paragraph reworded for clearness; seventh paragraph changed to permit sale of stock by corporation on account of indebtedness to the corporation, instead of merely for assessments or installments.

Consolidation—must be authorized by law and in manner provided by law. *Overstreet & Rock Island Impl't. Co. v. Citizens Bank*, 12 Okla. 383, 72 Pac. 379.

Consolidation. There is no statute authorizing the consolidation of two corporations by consolidating all of the property and franchises and attempting to form a new corporation; in absence of statute no such authority exists. *Topeka Paper Co. v. Okla. City Pub. Co.*, 7 Okla. 229, 54 Pac. 455.

Corporation has only such powers as are expressly conferred, and those incident and necessary thereto. *Jones v. Carnes*, 17 Okla. 479, 87 Pac. 652.

Powers—express and implied. Corporations possess powers expressly conferred by law, and such implied power necessary in exercising them. *Derr et al. v. Fisher et al.*, 22 Okla. 126, 98 Pac. 978.

Same—liable on contracts made within scope of its powers. *Id.*

Unauthorized conveyance by corporation, in excess of powers, held void. *Lafferty v. Evans*, 17 Okla. 247, 87 Pac. 304.

Corporation may make a lease of its entire property, although no express authority contained in articles. *Anderson et al. v. Shawnee Compress Co. et al.*, 17 Okla. 231, 87 Pac. 315.

Power to issue accommodation paper. 9 L. R. A. (ns) 196-n.

Power to dedicate property for public use. 8 L. R. A. (ns) 966-n.

Right to locate mining claim. 7 L. R. A. 816-n.

Right to refuse to transfer stock on its books because of objections to former holder. 27 L. R. A. (ns) 200-n.

Right to the aid of equity to compel corporation to transfer on its books stock required in aid of conspiracy. 24 L. R. A. (ns) 198-n.

Duty of corporation with respect to transfer of stock held in trust. 15 L. R. A. 643-n.

Restrictions on right to sell stock. 27 L. R. A. 271-n.

As beneficiary of charitable bequest. 14 L. R. A. (ns) 140-n.

As trustee for charitable bequest. 14 L. R. A. (ns) 111-n.

Right to sue for libel. 2 L. R. A. (ns) 741-n.

Stockholder may bring a suit when corporation refuses. 28 Okla. 792, 116 Pac. 188.

423. Corporations prohibited from acquiring or holding land—exceptions. No corporation shall be created or licensed in this State for the purpose of buying, acquiring, trading, or dealing

CORPORATIONS

in real estate other than real estate located in incorporated cities and towns and as additions thereto; nor shall any corporation doing business in this State buy, acquire, trade, or deal in real estate for any purpose except such as may be located in such towns and cities and as additions to such towns and cities, and further except such as shall be necessary and proper for carrying on the business for which it was chartered or licensed, nor shall any corporation be created or licensed to do business in this State for the purpose of acting as agent in buying and selling land: Provided, however, that corporations shall not be precluded from taking mortgages on real estate to secure loans or debts or from acquiring title thereto upon foreclosure of such mortgages or in the collection of debts, conditioned that such corporation or corporations shall not hold such real estate for a longer period than seven years after acquiring such title: And Provided, further, that this section shall not apply to trust companies taking only the naked title to real estate in this State as a trustee, to be held solely as security for indebtedness pursuant to such trust: And Provided further, that no public service corporation shall hold any land, or the title thereof, in any way whatever in this State, except as the same shall be necessary for the transaction and operation of its business as such public service corporaion.

Sec. 2, (349) Art. 22, Const.

424. Land companies. No corporation shall be created, licensed, or chartered in this State for the purpose of buying, acquiring, selling, trading, or dealing in real estate other than real estate located in incorporated cities and towns, and as additions to such cities and towns; nor shall any corporation doing business in this State buy, acquire, sell, trade, or deal in real estate for any purpose, except such lands as may be located in incorporated cities and towns and as additions thereto, and except such as shall be necessary and proper for carrying on the business for which such corporation was licensed or chartered; nor shall any corporation be created licensed, or chartered to do business in this State, for the purpose of acting as agent in buying or selling real estate, except as herein provided: Provided, however, that corporations shall not be precluded from taking mortgages on real estate to secure loans or debts or from acquiring title thereto upon foreclosure of such mortgages or in the collection of debts, conditioned that such corporation or corporations shall not hold any real estate so acquired for a longer period than seven years, and conditioned that disposition or incumbrance of such land shall in no way be made to another corporation, or corporations; Provided, further, that this section shall not apply to trust companies taking only the naked title to real estate in this State, as trustee, to be held solely as security for indebtedness pursuant to such trust.

Sec. 1312, R. L. 1919.

History. L. 1907 S. p. 196, effective May 26, 1908. Revision: First part of section defining power of corporations, eliminated as covered more fully by preceding section.
S. of L. 659, 115 Pac. 167.

CORPORATE POWERS

425. Disposition of surplus realty. Every corporation doing business in this State which owns real estate, other than real estate within the corporate limits of cities and towns, or as additions to cities and towns, or either of such, shall, unless the same be necessary and proper for carrying on the business for which such corporations are licensed or chartered, sell and dispose of said real estate within a period of seven years from the 26th day of May, 1908: Provided, that all corporations which may hereafter acquire title to real estate upon foreclosure or mortgage or in collection of debts shall dispose of said real estate within a period of seven years from the date said title was acquired; Provided, further, that if at the expiration of seven years from the date heretofore respectively mentioned, if such lands remain unsold, it shall be the duty of the county attorney of the county in which such real estate is situated to proceed by information in the name of the people of the State of Oklahoma against such corporation in the district court of such county, and such court shall hear and determine the facts and proceed against said property as in case of escheat.

Sec. 1243, R. L. 1910.

History. L. 1907-8, p. 197; effective May 26 1908. Revision: Superfluous verbiage eliminated.

Corporations—sale of realty—repeal of statute. Section 2 of the act of the legislature approved May 26, 1908, (Sess. Laws 1907-8, Ch. 13, Art. 2), providing that every corporation doing business in the state which owns real estate, other than real estate within the corporate limits of cities or towns at the time the act became effective, "shall, unless the same shall be necessary and proper for carrying on the business of which such corporations are licensed or chartered, sell and dispose of said real estate within a period of seven years," was not, as to the right to sell and dispose of such lands within the period named, repealed by the act approved May 27, 1908. (Sess. Laws 1907-08, Ch. 32, Art. 1. State v. Prairie Oil & Gas Co., 167 Pac. 756.)

Statutes—construction—contemporaneous acts. Acts passed by the same session of the legislature, and particularly those passed at nearly the same time, relating to the same subject or class of subjects, are presumed to be imbued by the same spirit and actuated by the same policy, and hence should be construed each in the light of the other. *Id.*

Statutes—repeal—irreconcilable conflict. An act of the legislature, containing a repealing clause, but which is confined to such statutes as are in conflict with its terms, approved on the day following the approval of another act of the same legislature upon the same or a closely related subject, and which former act, because of the emergency clause became immediately effective, does not work a repeal of the former act, unless there be an irreconcilable conflict between the two. *Id.*

Corporations—sale of realty—statutes. The act of May 26, 1908, by Sec. 4 thereof, is applicable "to all corporations doing business in this State, whether formed under the laws of this State, under laws previously in force in any part thereof, or under the laws of any other state, territory or government." *Id.*

426. Same—escheat—land illegally held by corporations. In all cases where, by reason of the provisions of section two, article twenty-two of the Constitution of this State, the title to any real property in the State shall fail to vest in the grantee under any deed, bond, contract, or will, or other instrument of conveyance, or shall fail to vest in the grantee under any deed, bond, contract or will, or other instrument of conveyance, or shall fail to vest, or be transmitted under any law of inheritance or succession of this State, or where once having vested, the holder of such title shall become incapable of returning the same, all such real estate in all such cases shall be subject to escheat to the State of Oklahoma, and the pro-

CORPORATIONS

ceeds arising from the sale thereof by the State shall go to the public school fund of the county in which such real estate is situate, less the amount to be fixed by the court where such escheat proceedings are had covering cost of such proceedings, including compensation to the person giving the information upon which such escheat proceedings may be based and prosecuted. Every transfer made in trust for any corporation mentioned in said section two, article twenty-two of the State Constitution, either secretly or otherwise, made to evade such provision of the Constitution, shall be deemed within the provisions of this article.

Sec. 8437, R. L. 1910.

History. L. 1907-8, p. 388.

Right of state to contest will so as to escheat the property. 2 L. R. A. (ns) 643-n.

Termination of right to declare escheat by death of alien or transfer in his lifetime. 9 L. R. A. (ns) 186-n.

427. Statements by corporation officers—record. The president, secretary or treasurer of every corporation holding any lands, which under the provisions of this act he will be required to sell, shall, within twenty-days from the first day of January, in each year, file in the office of the Corporation Commission a list of all such lands setting forth a description of same, together with the date upon which such real estate was acquired and the amount of the claims of such corporation in the satisfaction of which same was acquired; such statements shall be verified by the oath of such president, secretary or treasurer, and a duplicate of same, properly verified, shall be filed and recorded in the office of the register of deeds of the county in which such real estate is located, the fees for such recording to be paid by the corporation filing the same for record.

Sec. 1, Ch. 88 S. L. 1913, amending S. L. 1907-8, Ch. 13, Art. 2, Sec. 3 (R. L. 1211); effective June 16, 1913.

428. Applies to all corporations. The provisions of sections 1242, 1243 and 1244 shall apply to all corporations doing business in this State, whether formed under the laws of this State, under laws previously in force in any part thereof, or under the laws of any other state, territory, or government; and no foreign corporation shall be relieved from compliance with the requirements made of domestic corporations by the provisions of this or any other law of this State.

Sec. 1245, R. L. 1910.

History. L. 1907-8, p. 198; effective May 26, 1908.

429. Punishment for failure to file. Any corporation failing or refusing to file such reports shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be fined in any sum not less than twenty-five nor more than two hundred dollars, and a certificate of the secretary of the Corporation Commission to the effect that such reports have not been filed in the office of the Corporation Commission, shall be admissible and competent as evidence in a trial upon any such charge, and if such be not paid within a reasonable time, such fact shall be certified to the county treasurer of any county in which

CORPORATE POWERS

such corporation owns real estate which under the provisions of this article it would be required to report and sell, and such fine and all costs remaining unpaid shall be assessed by such treasurer against any such lands so held and collected in the same manner as taxes due thereon.

History. S. L. 1913, p. 143, Sec. 2 amending S. L. 1907-08, Ch. 13, Art. 2, by addition of new section; effective June 16, 1913.

The language of the amendatory provision of this section is: "That Art. 2, of Chap. 13, Session Laws of 1907-08, be amended by adding new section providing a penalty, and to be Sec. 4½, as follows:"

430. Must adopt by-laws. Every corporation formed under this chapter must, within one month after filing articles of incorporation, adopt a code of by-laws for its government not inconsistent with the laws of the United States or of this State. The assent of stockholders representing a majority of all the subscribed capital stock, or of a majority of the members, if there be no capital stock, is necessary to adopt by-laws, if they are adopted at a meeting called for that purpose; and in the event of such meeting being called, two weeks' notice of the same, by advertisement in some newspaper published in the county in which the principal place of business of the corporation is located, or if none is published therein, then in a paper published in an adjoining county, must be given by order of the acting president. The written assent of the holders of two-thirds of the stock, or of two-thirds of the members, if there be no capital stock, shall be effectual to adopt a code of by-laws without a meeting for that purpose.

Sec. 1246, R. L. 1910.

History. Dak. 2920; S. 1890, Sec. 975.

Application to banks. This section does not apply to banking corporations. *Smock v. Farmers' Union State Bank*, 22 Okla. 825, 98 Pac. 945, 149 Pac. 864.

Articles must be filed within one month. Section applied. *Edwards v. Fargo & So. Ry.*, 4 Dak. 549, 33 N. W. 100.

431. What the by-laws may provide. A corporation may, by its by-laws, where no other provision is specially made, provide:

First. The time, place, and manner of calling and conducting its meetings.

Second. The number of stockholders or members constituting a quorum.

Third. The mode of voting by proxy.

Fourth. The time of the annual election for directors, and the mode and manner of giving notice thereof.

Fifth. The compensation and duties of officers.

Sixth. The manner of election and the tenure of office of all officers other than the directors; and,

Seventh. Suitable penalties for violations of by-laws, not exceeding in any case, one hundred dollars for any one offense.

Sec. 1247, R. L. 1910.

History. Dak. 2921; S. 1890, Sec. 976.

Duties of officers. Section applied. *Edwards v. Fargo & So. Ry.*, 4 Dak. 549, 33 N. W. 100.

CORPORATIONS

432. Certificate and record of by-laws. All by-laws adopted must be certified by a majority of the directors and secretary of the corporation, and copied in a legible hand in some book kept in the office of the corporation, to be known as "The Book of By-laws," and no by-laws shall take effect until so copied, and the book shall then be open to the inspection of the public during the office hours of each day except holidays. The by-laws may be repealed or amended, or new by-laws may be adopted at the annual meeting, or at any other meeting of the stockholders or members, called for that purpose by the directors, by a vote representing two-thirds of the subscribed stock, or by two-thirds of the members; or the power to repeal and amend the by-laws and to adopt new by-laws may, by a similar vote at any such meeting, be delegated to the board of directors. The power, when delegated, may be revoked by a similar vote at any regular meeting of the stockholders or members. Whenever any amendment or new by-law is adopted it shall be copied in the book of by-laws with the original by-laws, and immediately after them, and shall not take effect until so copied. If any by-law be repealed, the fact of the repeal, with the date of the meeting at which the repeal was enacted, shall be stated in the said book and until so stated the repeal shall not take effect.

Sec. 1248, R. L. 1910.

History. Dak. 2922; S. 1890, Sec. 977.
119 Pac. 861.

433. Election of directors. The directors of a corporation must be elected annually by the stockholders or members, and if no provision is made in the by-laws for the time of election, the election must be held on the first Tuesday in June. Notice of such election must be given, and the right to vote determined, as provided in Section 1246 (430).

Sec. 1249, R. L. 1910.

History. Dak. 2923; S. 1890, Sec. 978.

434. Same. At the first meeting at which by-laws are adopted, or at such subsequent meeting as may be then designated, directors must be elected to hold their offices for one year, and until their successors are elected and qualified.

Sec. 1250, R. L. 1910.

History. Dak. 2924; S. 1890, Sec. 979.

435. Same. All elections of directors must be by ballot, and a vote of stockholders representing a majority of the subscribed capital stock, or of a majority of the members, is necessary to a choice. If there be capital stock in the corporation, each stockholder is entitled to one vote for each share held by him at all such elections, and also at all elections at other meetings of stockholders.

Sec. 1251, R. L. 1910.

History. Dak. 2925; S. 1890, Sec. 980.

436. Number of directors and their powers. The corporate powers, business and property of all corporations formed under this chapter must be exercised, conducted and controlled by a board of not less than three nor more than eleven directors, to be elected from among the holders of stock; or where there is no capital stock,

CORPORATE POWERS

then from the members of such corporation. Directors of corporations for profit must be holders of stock therein in an amount to be fixed by the by-laws of the corporation. Directors of all other corporations must be members thereof. Unless a quorum is present and acting, no business performed or act done is valid as against the corporation. Whenever a vacancy occurs in the office of director, unless the by-laws of the corporation otherwise provide, such vacancy must be filled by an appointee of the board.

Sec. 1252, R. L. 1910.

History. Dak. 2926; S. 1890, Sec. 981.

Directors—dividing corporate property among themselves. Transaction arising in pursuance of such is voidable at instance of corporation and other stockholders; and the evidence thereof is not admissible to establish claim adverse to corporation over its objection. *Barnes et al. v. Lynch et al.*, 9 Okla. 156, 59 Pac. 995.

Same—this rule adhered to, regardless of whether or not there was a fair and valuable consideration therefor. *Id.*

437. Directors to elect officers. Immediately after their election, the directors must organize by the election of a president, who must be one of their number, a secretary and treasurer. They must perform the duties enjoined on them by law and the by-laws of the corporation. A majority of the directors is a sufficient number to form a board for the transaction of business, and every decision of a majority of the directors forming such board, made when duly assembled, is valid as a corporate act.

Sec. 1253, R. L. 1910.

History. Dak. 2927; S. 1890, Sec. 982.

Contract executed by president—ratification by board of directors is binding on corporation. *Derr et al. v. Fisher et al.*, 22 Okla. 126, 98 Pac. 978.

Power of officer to bind corporation. National bank. *National Bank of Commerce v. Earle*, 2 Okla. 617, 39 Pac. 391.

Cited. *Edwards v. Fargo & So. Ry.*, 4 Dak. 549, 33 N. W. 100.

438. Dividends—liability of directors. The directors of corporations must not make dividends except from the surplus profit arising from the business thereof, nor must they divide, withdraw, or pay to the stockholders, or any of them, any part of the capital stock; nor must they create debts beyond their subscribed capital stock, or reduce or increase their capital stock, except as specially provided by law. For a violation of the provisions of this section, the directors under whose administration the same may have happened (except those who may have caused their dissent therefrom to be entered at large on the minutes of the directors at the time, or were not present when the same did happen), are, in their individual and private capacity, jointly and severally liable to the corporation, and to the creditors thereof, in the event of its dissolution, to the full amount of the capital stock so divided, withdrawn, paid out, or reduced, or debt-contracted; and no statute of limitations is a bar to any suit against such directors for any sums for which they are made liable by this section. There may, however, be a division and distribution of the capital stock of any corporation which remains after the payment of all its debts, upon its dissolution or the expiration of its term of existence.

Sec. 1254, R. L. 1910.

History. Dak. 2928; S. 1890, Sec. 983.

CORPORATIONS

Applied. Price v. Winnebago National Bank, 14 Okla. 268, 79 Pac. 105.

Attempted, but unauthorized consolidation with another corporation, not within provisions of this section. Topeka Paper Co. v. Okla. City Pub. Co., 7 Okla. 220, 54 Pac. 455.

When right of action accrues. Right of action against directors under this section does not accrue until after the event of dissolution, or after same has been adjudged by a competent court. *Id.*

Purpose of this section was to protect persons who enter into engagements with corporations from being imposed upon by directors in an effort to do that which they are prevented from doing. Rogers et al. v. Bonnett et al., 2 Okla. 553, 560, 37 Pac. 1078.

Same—contribution cannot be enforced as between directors and against each other. *Id.*

Sale—right of third parties. In a sale of practically all the property of corporation the two principal stockholders agreed to assume one-half of the debts; held, plaintiff could recover against his co-promisor his portion of the debts. Collins v. Kaw City Mill & Elevator Co. et al., 26 Okla. 641, 110 Pac. 734. 37 Okla. 616, 629, 133 Pac. 193.

439. False representation by officer. Any officer of a corporation who wilfully gives a certificate, or wilfully makes an official report, public notice, or entry in any of the records or books of the corporation, concerning the corporation or its business, which is false in any material representation, shall be liable for all the damages resulting therefrom to any person injured thereby; and if two or more officers unite or participate in the commission of any of the acts herein designated, they shall be jointly and severally liable. Sec. 1255, R. L. 1910.

History. Dak. 2929; S. 1890, Sec. 984.

440. Removal of directors. No director shall be removed from office, unless by a vote of two-thirds of the members, or of stockholders holding two-thirds of the capital stock, at a general meeting held after notice of the time and place, and of the intention to propose such removal. Meetings of stockholders for this purpose may be called by the president, or by a majority of the directors, or by members or stockholders holding at least one-half of the votes. Such calls must be in writing and addressed to the secretary, who must thereupon give notice of the time, place and object of the meeting, and by whose order it was called. If the secretary refuse to give the notice, or if there is none, the call may be addressed directly to the members or stockholders, and be served as a notice, in which case it must specify the time and place of meeting. The notice must be given in the manner provided in Section 1246 (130), unless other express provision has been made therefor in the by-laws. In case of removal, the vacancy may be filled by election at the same meeting.

Sec. 1256, R. L. 1910

History. Dak. 2930; S. 1890, Sec. 985.

441. Quorum of stockholders—proxies. At all elections or votes had for any purpose, there must be a majority of the subscribed capital stock or of the members, represented either in person or by proxy, in writing. Every person acting therein, in person, or by proxy, or representative, must be a member thereof or a bona fide stockholder, having stock in his own name on the stock books of the corporation at least ten days prior to the election. Any vote or election had other than in accordance with the provisions

CORPORATE POWERS

of this article is voidable at the instance of the absent stockholders or members, and may be set aside by petition to the district court of the county where the same was held. Any regular or called meeting of the stockholders or members may adjourn from day to day, or from time to time, if for any reason there is not present a majority of the subscribed stock or members, or no election or majority vote had; such adjournment and the reasons therefor being recorded in the journal of proceedings of the board of directors.

Sec. 1257, R. L. 1910.

History. Dak. 2931; S. 1890, Sec. 986.

442. Postponed elections. If from any cause an election does not take place on the day appointed in the by-laws, it may be held on any day thereafter as is provided for in such by-laws, or to which such election may be adjourned or ordered by the directors. If an election has not been held at the appointed time, and no adjourned or other meeting for the purpose has been ordered by the directors, a meeting may be called by the stockholders, as provided in the second preceding section.

Sec. 1258, R. L. 1910.

History. Dak. 2932; S. 1890, Sec. 987. Revision: Each paragraph of original section made a separate section (Secs. 1258-1262, inclusive).

443. Complaint on election. Upon the application of any person or body corporate aggrieved by any election held by any corporate body, or any proceedings thereof, the district judge of the district in which such election is held must proceed forthwith summarily to hear the allegations and proofs of the parties, or otherwise inquire into the matters of complaint, and thereupon confirm the election, order a new one, or direct such other relief in the premises as accords with right and justice. Before any proceedings are had under this section, five days, notice thereof must be given to the adverse party, or those to be affected thereby.

Sec. 1259, R. L. 1910.

History. Dak. 2932; S. 1890, Sec. 987.

444. Place of meetings. The meetings of the stockholders and board of directors of a corporation, except as otherwise herein provided, must be held at its office or principal place of business: Provided, that the meetings of the boards of directors of railroad corporations having one or more directors resident in this State, or having duly appointed an agent resident in this State, upon whom service may be made, may be held at any place mentioned in the notice convening said board of directors, either within or without the State.

Sec. 1260, R. L. 1910.

History. Dak. 2932; S. 1890, Sec. 987.

445. Calls—by whom made. When no provision is made in the by-laws for regular meetings of the directors and the mode of calling special meetings, all meetings must be called by special notice in writing, to be given to each director by the secretary, on the order of the president, or, if there be none, on the order of two directors.

Sec. 1261, R. L. 1910.

History. Dak. 2932; S. 1890, Sec. 987.

CORPORATIONS

446.—Same—vacancy. Whenever, from any cause, there is no person authorized to call or to preside at a meeting of a corporation, any justice of the peace of the county where such corporation is established, may, on written application of three or more of the stockholders or of the members thereof, issue a warrant to one of the stockholders or members, directing him to call a meeting of the corporation, by giving the notice required; and the justice may in the same warrant direct such person to preside at such meeting until a clerk is chosen and qualified, if there is no other officer present legally authorized to preside thereat.

Sec. 1262, R. L. 1910.

History. Dak. 2932; S. 1890, Sec. 987.

447. Individual liability of stockholders. Each stockholder of a corporation is individually and personally liable for the debts of the corporation to the extent of the amount that is unpaid upon the stock held by him. Any creditor of the corporation may institute joint or several actions against any of its stockholders that have not wholly paid the capital stock held by him, and in such action the court must ascertain the amount that is unpaid upon the stock held by each stockholder and for which he is liable, and several judgment must be rendered against each in conformity therewith. The liability of each stockholder is determined by the amount unpaid upon the stock or shares owned by him at the time such action is commenced, and such liability is not released by any subsequent transfer of stock. And in no other case shall the stockholders be individually and personally liable for the debts of the corporation. The term "stockholder," as used in this section, shall apply not only to such persons as appear by the books of the corporation to be such, but also to every equitable owner of stock, although the same appear on the books in the name of another; and also to every person who has advanced the installments or purchase money of stock in the name of a minor, so long as the latter remains a minor; and also to every guardian or other trustee who voluntarily invests any trust funds in the stock. Trust funds in the hands of a guardian or trustee shall not be liable under the provisions of this section by reason of any such investment, nor shall the person for whose benefit the investment is made be responsible in respect to the stock until he becomes competent and able to control the same; but the responsibility of the guardian or trustee making the investment shall continue until that period. Stock held as collateral security, or by a trustee, or in any other representative capacity, does not make the holder thereof a stockholder within the meaning of this section, except in the cases above mentioned; so as to charge him with the debts or liabilities of the corporation; but the pledgor or person or estate represented, is to be deemed the stockholder as respects such liability.

Sec. 1263, R. L. 1910.

History. Dak. 2933; S. 1890, Sec. 988.
Liability upon subscription. 34 L. R. A. 797 n.
Effect of transfer of share upon liability for unpaid subscription. 47 L. R. A. 716 n.

CORPORATE POWERS

Effect on statutory liability of stockholder who sells his shares of a technical failure to record the transfer. 11 L. R. A. (ns) 818-n.

Personal liability of executor, administrator, or trustee, on corporate stock belonging to estate or trust, but standing in his name. 30 L. R. A. (ns) 1992-n.

Does statutory liability of stockholder or officer for debts of corporation include liability for torts? 22 L. R. A. (ns) 256-n.

Issuance of stock at discount as affecting stockholder's liability for debts. 8 L. R. A. (ns) 263-n.

Effect of creditor's knowledge that stock was improperly issued as fully paid upon his right to resort to holder for same. 8 L. R. A. (ns) 271-n.

448. Written consent to meeting. When all stockholders or members of a corporation are present at any meeting, however, called or notified, and sign a written consent thereto on the record of such meeting, the doings of such meeting are as valid as if had at a meeting legally called and notified. The stockholders or members of such corporation, when so assembled, may elect officers to fill all vacancies then existing, and may act upon such other business as might lawfully be transacted at regular meetings of the corporation.

Sec. 1261, R. L. 1910.

History. Dak. 2934; S. 1890, Sec. 989.

449. Transfer of stock to nonresidents. When the shares of stock in a corporation are owned by parties residing out of the State, the president, secretary and directors of the corporation, before entering any transfer of the shares on its books, or issuing a certificate thereof to the transferee, may require from the attorney or agent of the nonresident owner, or from the person claiming under the transfer, an affidavit or other evidence that the nonresident owner was alive at the date of the transfer; and if such affidavit or other satisfactory evidence be not furnished, may require from the attorney, agent, or claimant, a bond of indemnity, with two sureties, satisfactory to the officers of the corporation, or if not so satisfactory, then one approved by the district judge of the county in which the principal office of the corporation is situated, conditioned to protect the corporation against any liability to the legal representatives of the owner of the shares, in case of his or her death before the transfer, and if such affidavit or other evidence or bond be not furnished when required, as herein provided, neither the corporation nor any officer thereof shall be liable for refusing to enter the transfer on the books of the corporation.

Sec. 1265, R. L. 1910.

History. Dak. 2935; S. 1890, Sec. 990.

450. Change in capital stock. Every corporation may increase or diminish its capital stock at a meeting called for that purpose by the directors, as follows:

First. Notice of the time and place of the meeting stating its object and the amount to which it is proposed to increase or diminish its capital stock, must be personally served on each stockholder resident in the State, at his place of residence, if known, and if not known, at the place where the principal office of the corporation is situated, and be published in a newspaper published in the county of such principal place of business, once a week for four weeks successively.

CORPORATIONS

Second. The capital stock must in no case be diminished to an amount less than the indebtedness of the corporation, or the estimated cost of the works which it may be the purpose of the corporation to construct.

Third. At least two-thirds of the entire capital stock must be represented by the vote in favor of the increase or diminution before it can be effected.

Fourth. A certificate must be signed by the chairman and secretary of the meeting, and a majority of the directors, showing a compliance with the requirements of this section, the amount to which the capital stock has been increased or diminished, the amount of stock represented at the meeting and the vote by which the object was accomplished.

Fifth. The certificate must be filed in the office of the secretary of state there to be recorded in the book of corporations and thereupon the capital stock shall be so increased or diminished.

Sixth. The written assent of the holders of three-fourths of the subscribed capital stock shall be as effectual to authorize the increase or diminution of the capital stock as if a meeting were called and held, and upon such written assent the directors may proceed to make the certificate herein provided for.

Sec. 1266, R. L. 1910.

History. Dak. 2936; S. 1890, Sec. 991.

Power to increase capital stock of corporations. 38 L. R. A. 616-n.

Right as between owner of capital and income, to increased stock. 16 L. R. A. 461-n.

ARTICLE V.

CORPORATE RECORDS.

Sec. 451. Record of business transactions and meetings.

Sec. 452. Stock and transfer book.

451. Record of business transactions and meetings. All corporations for profit are required to keep a record of all their business transactions; a journal of all meetings of their directors, members or stockholders, with the time and place of holding the same, whether regular or special, and, if special, its object, how authorized, and the notice thereof given. The record must embrace every act done, or ordered to be done, who were present and who were absent; and, if requested by any director, member or stockholder, the time shall be noted when he entered the meeting or obtained leave of absence therefrom. On a similar request, the ayes and nays must be taken on any proposition, and a record thereof made. On a similar request the protest of any director member or stockholder to any action or proposed action, must be entered in full; all such records to be open to the inspection of any director, member, stockholder, or creditor of the corporation.

Sec. 1267, R. L. 1910.

History. Dak. 2937, S. 1890, Sec. 992. Revision: Second paragraph of original section made a separate section.

Cited. *Edwards v. Farro & So. Ry.*, 1 Dak. 519, 33 N. W. 100.

DISSOLUTION OF CORPORATIONS

Best evidence. Those records required to be kept are the best evidence of their contents. *Barnes et al. v. Lynch et al.*, 9 Okla. 156, 59 Pac. 995.

Secondary evidence of contents not admissible when plaintiff removes best evidence from court's jurisdiction voluntarily, and makes no effort or excuse for not producing it. 1d. *Citing 10 Kan. 181.*

Right of stockholders to inspect books of corporation. 45 L. R. A. 416-n; 20 L. R. A. (ns) 185-n.

452. Stock and transfer book. In addition to the records above required to be kept, corporations for profit must keep a book, to be known as the "Stock and Transfer Book," in which must be kept a record of all stock, the names of the stockholders or members, alphabetically arranged; installments, paid or unpaid; assessments levied and paid or unpaid, a statement of every alienation, sale or transfer of stock made, the date thereof, and by and to whom; and all such other records as the by-laws prescribe. Corporations for religious and benevolent purposes must provide in their by-laws for such records to be kept as may be necessary. Such stock and transfer book must be kept open to the inspection of any stockholder, member or creditor.

Sec. 1268, R. L. 1910.

History. Dak. 2937; S. 1890, Sec. 991.

Stock book—evidence—not conclusive to show party was stockholder at time of bank's failure, in absence of a showing that stock books were accurately kept. *Willoughby, Receiver, v. Kelly*, 19 Okla. 123, 91 Pac. 874.

ARTICLE VI.

DISSOLUTION OF CORPORATIONS.

- Sec. 453. Dissolution of corporations.
- 454. Voluntary dissolution.
- 455. Action for involuntary dissolution, when.
- 456. Same—leave to bring action.
- 457. Action against illegal corporations.
- 458. Judgment of dissolution.
- 459. Costs.
- 460. Receiver to be appointed.
- 461. Judgment to be filed.
- 462. Lapse of corporation by non-user.
- 463. Directors trustees on dissolution.
- 464. Liability of trustees.
- 465. Revival of corporation.

453. Dissolution of corporations. A corporation is dissolved:

First. By the expiration of the time limited by its articles of incorporation.

Second. By involuntary dissolution.

Third. By voluntary dissolution.

Sec. 1269, R. L. 1910.

History. Dak. 2938; S. 1890, Sec. 993. Revision: The original third paragraph is made a separate section (1270) and a new third paragraph substituted.

Only methods by which dissolution of a corporation may be accomplished are those provided in this and the following section. *Topeka Paper Co. v. Okla. City Pub. Co.*, 7 Okla. 220, 54 Pac. 455.

Power of majority of stockholders to dissolve. 2 L. R. A. (ns) 493-n.

Right of minority stockholder to restrain voluntary dissolution of corporation by directors or other stockholders. 23 L. R. A. (ns) 1177-n.

Power to appoint receivers of corporations when no other relief asked. 20 L. R. A. 210-n.

Period of existence of private corporation. 33 L. R. A. 576-n.

42 Okla. 440, 141 Pac. 790.

454. Voluntary dissolution. Voluntary dissolution may be effected in the following manner:

CORPORATIONS

First. A corporation may be dissolved by the district court of the county where its office or principal place of business is situated, upon its voluntary application for that purpose.

Second. The application must be in writing, and must set forth that, at a meeting of the stockholders or members called for that purpose, the dissolution of the corporation was resolved upon by a two-thirds vote of all the stockholders or members, and that all claims and demands against the corporation have been satisfied and discharged.

Third. The application must be signed by a majority of the board of directors, trustees, or other officers having the management of the affairs of the corporation, and must be verified in the same manner as a complaint in a civil action.

Fourth. If the court is satisfied that the application is in conformity with this section, it must order the application to be filed and that the clerk give not less than thirty nor more than fifty days' notice of the application, by publication in some newspaper published in the county, and, if there are none such, then by advertisement posted up in five of the principal public places in the county.

Fifth. At any time before the expiration of the time of publication any person may file his objections to the application.

Sixth. After the time of publication has expired, the court may, upon five days' notice to the persons who have filed objections or without further notice if no objections have been filed, proceed to hear and determine the application; and if all the statements therein made are shown to be true the court must declare the corporation dissolved.

Seventh. The application, notices and proof of publication, objections (if any) and declaration of dissolution, constitute the judgment roll, and from the judgment an appeal may be taken in the same manner as in other actions.

Sec. 1279, R. L. 1910.

History. Dak. 2938; S. 1890, Sec. 993.
42 Okla. 119, 141 Pac. 799.

455. Action for involuntary dissolution, when. An action may be brought by any county attorney, in the name of the State, on leave granted by the district court, or the judge thereof, for the purpose of vacating the charter or the articles of incorporation, or for annulling the existence of a corporation, other than municipal, whenever such corporation shall:

First. Offend against any of the laws creating, altering or renewing such corporation; or,

Second. Violate the provisions of any law, by which such corporation shall have forfeited its charter or articles of incorporation, by abuse of its power; or,

Third. Whenever it shall have forfeited its privileges or franchises by failure to exercise its powers; or,

DISSOLUTION OF CORPORATIONS

Fourth. Whenever it shall have done or omitted any act which amounts to a surrender of its corporate rights, privileges and franchises; or,

Fifth. Whenever it shall exercise a franchise or privilege not conferred upon it by law.

And it shall be the duty of any county attorney, whenever he shall have reason to believe that any of these acts or omissions can be established by proof, to apply for leave, and upon leave granted, to bring the action, in every case of public interest, and also in every other case in which satisfactory security shall be given to indemnify the State against the costs and expenses to be incurred thereby.

Sec. 1271, R. L. 1910.

History. Dak 5346. Revision: This and the following sections, to and including Sec. 1277, are taken from the Dakota Code of 1887, in order to make the laws regarding the dissolution of corporations a harmonious whole; they were referred to in the first section of this article, as it originally stood, but were not part of the Oklahoma laws.

456. Same—leave to bring action. Leave to bring the action may be granted upon the application of any county attorney; and the court or judge may, at discretion, direct notice of such application to be given to the corporation or its officers, previous to granting such leave, and may hear the corporation in opposition thereto.

Sec. 1272, R. L. 1910.

History. Dak. 5347.

457. Action against illegal corporations. An action may be brought by any county attorney in the name of the State, upon his own information or upon the complaint of any private party, against any association or number of persons acting within this State as a corporation, without being duly incorporated.

Sec. 1273, R. L. 1910.

History. Dak. 5348.

458. Judgment of dissolution. If it shall be adjudged that a corporation against which an action shall have been brought pursuant to this article has, by neglect, abuse or surrender, forfeited its corporate rights, privileges and franchises, judgment shall be rendered that the corporation be excluded from such corporate rights, privileges and franchises, and that the corporation be dissolved.

Sec. 1274, R. L. 1910.

History. Dak. 5357.

459. Costs. If judgment be rendered in such action against a corporation, or against a person claiming to be a corporation, the court may cause the costs therein to be collected by execution against the person claiming to be a corporation, or against the directors or other officers of such corporation.

Sec. 1275, R. L. 1910.

History. Dak. 5358.

460. Receiver to be appointed. When such judgment shall be rendered against a corporation the court has power to restrain the

CORPORATIONS

corporation, to appoint a receiver of its property, and to take an account and make distribution thereof among its creditors; and the county attorney must, immediately after the rendition of such judgment, institute proceedings for that purpose.

Sec. 1276, R. L. 1910.

History. Dak. 5359.

461. Judgment to be filed. Upon the rendition of such judgment against a corporation, the county attorney must cause a copy of the judgment to be filed forthwith in the office of the secretary of state, whose duty it shall be to record the same.

Sec. 1277, R. L. 1910.

History. Dak. 5360.

462. Lapse of corporation by non-user. If a corporation does not organize and commence the transaction of business, or the construction of its works, within one year from the date of its incorporation, its corporate powers cease.

Sec. 1278, R. L. 1910.

History. Dak. 2939; S. 1899, Sec. 994

Corporate existence—not extinguished until charter of corporation is surrendered or forfeited. *Overstreet & Rock Island Implement Co. v. Citizens' Bank*, 12 Okla. 383, 72 Pac. 379.

42 Okla. 440, 141 Pac. 790.

463. Directors trustees on dissolution. Unless other persons are appointed by the court, the directors or managers of the affairs of such corporation at the time of its dissolution are trustees of the creditors and stockholders or members of the corporation dissolved, and have full power to settle the affairs of the corporation, and to collect and pay debts and divide among the stockholders the property which remains after the payment of debts and necessary expenses; and for such purposes may maintain or defend actions in their own names by the style of the trustees of such corporation dissolved, naming it; and no action whereto any such corporation is a party shall abate by reason of such dissolution.

Sec. 1279, R. L. 1910.

History. Dak. 2910; S. 1899, Sec. 995.

464. Liability of trustees. The trustees mentioned in the preceding section are jointly and severally responsible to the creditors, stockholders and members of the corporation, to the extent of its property in their hands.

Sec. 1280, R. L. 1910.

History. Dak. 2911; S. 1899, Sec. 996.

465. Revival of corporation. A corporation once dissolved can be revived only by the same power by which it could be created.

Sec. 1281, R. L. 1910.

History. Dak. 2912; S. 1899, Sec. 997.

ARTICLE VII.

FOREIGN CORPORATIONS.

- 461. Foreign corporation must file copy of charter.
- 462. Must appoint resident agent.
- 463. Record of appointment.

FOREIGN CORPORATIONS

- 469. Contracts void for noncompliance.
- 470. Process served on secretary of state, when.
- 471. Scope of article.
- 472. May not sue without complying.
- 473. Production of evidence required.
- 474. Violation of order—penalty.

466. Foreign corporation must file copy of charter. No foreign corporation, except created solely for religious or charitable purposes, shall transact business within this State until it shall have filed in the office of the secretary of state a certified copy of its charter or articles of incorporation, which shall be recorded in a book to be kept by the secretary of state for that purpose, and shall have paid the fees required by law.

Sec. 1335, R. L. 1910.

History. L. 1909, p. 147; effective June 10, 1909. Revision: "Foreign" inserted following "no," as the section plainly applies only to such corporations. Original section cut into three—Secs. 1335-6-7.

Adopted from Dakota (Sec. 1335, Comp. L. 1909). Keokuk Falls Imp. Co. et al. v. Kingsland Mfg. Co., 5 Okla. 32, 47 Pac. 484.

Referred to. Ballew v. Young et al., 24 Okla. 182, 188, 193 Pac. 623. Citing 96 Pac. 744.

Old section not in conflict with organic act, Sec. 10. Nelson v. Deming Inv. Co., 21 Okla. 610, 96 Pac. 742. Following 14 Okla. 651, 78 Pac. 105.

Construing Sec. 1537, Comp. L. 1909. *Id.*

148 Pac. 1008; 145 Pac. 1125; 139 Pac. 248; 42 Okla. 79, 140 Pac. 1138. Business herein held to be interstate, and not to constitute "doing business" hereunder, or under Sec. 1338. 42 Okla. 60, 139 Pac. 1133. 33 Okla. 266, 124 Pac. 1073.

Failure to comply—penalty. Sec. 1538, Comp. L. 1909, does not prohibit party from suing in courts of state where foreign corporation had not complied with section, and, where note sued on was executed before statehood, Const. Art. 9, Secs. 43, 44 (Bunn's Ed. Secs. 258, 259), do not apply. Cooper v. Ft. S. & W. R. Co., 23 Okla. 139, 148, 99 Pac. 785; 2 Dak. 280, 8 N. W. 131; 2 S. D. 596, 51 N. W. 706.

Construing Sec. 1538 Comp. L. 1909. State Life Ins Co. v. Okla. City, Nat. Bank et al., 21 Okla. 823, 97 Pac. 574.

Former section construed and applied. Nicoll et ux. v. Midland Savings, etc., Co., 21 Okla. 591, 96 Pac. 744; Cooper v. Ft. S. & W. R. Co., 23 Okla. 139, 99 Pac. 785.

Foreign corporation—presumption. Presumed that it has complied with domestic laws. Verdigris River Land Co. v. Stanfield et al., 25 Okla. 265, 105 Pac. 337.

Doing business—appointment of agent does not constitute. This is preliminary step only. Verdigris River Land Co. v. Stanfield et al., 25 Okla. 265, 105 Pac. 337.

Right to do business assailed. A foreign corporation, acting in excess of its conferred authority, may be questioned as to its authority only by the State. Myatt v. Ponca City Land & Imp. Co., 14 Okla. 189, 78 Pac. 385; 68 L. R. A. 810.

Comity. A foreign corporation, seeking to invoke the doctrine of comity, must first be possessed of some right, power or privilege in the country of its domicile, and unless it has both existence and some right or power there, it cannot be awarded any in a foreign state. Myatt v. Ponca City Land & Imp. Co., 14 Okla. 189, 78 Pac. 385; 68 L. R. A. 810.

Collateral attack. Foreign corporation complying with this article not subject to collateral attack. Higbee v. Aetna Bldg. & Loan Assn., 26 Okla. 327, 109 Pac. 236.

Compelling designation of person upon whom process may be served as a condition of right to do business. 1 L. R. A. (ns) 558-n.

Recognition or exclusion of foreign corporations. 21 L. R. A. 289-n.

Liability of foreign corporation which has complied with conditions of doing business in State to attachment as nonresident. 31 L. R. A. (ns) 278-n.

467. Must appoint resident agent. Every foreign corporation shall, before it shall be authorized or permitted to transact business in this State or continue business therein, if already established, by its certificate under the hand of the president and seal of the company, appoint an agent who shall be a citizen of the State and reside at the state capital, upon whom service of process may

CORPORATIONS

be made in any action in which said corporation shall be a party; and action may be brought in any county in which the cause of action arose, as now provided by law. Service upon said agent shall be taken and held as due service upon said corporation; and such certificate shall also state the principal place of business of such corporation in this State, with the address of the resident agent.

Sec. 1336, R. L. 1910.

History. L. 1909, p. 147; effective June 10, 1909.

Process—service made upon agent personally or by leaving same at his usual place of residence under terms of former section. *State Life Ins. Co. v. Okla. City Nat. Bank et al.*, 21 Okla. 823, 97 Pac. 574.

Service—purely a statutory provision. At common law there is no way in which process can be served. *Nelson v. Deming Inv. Co.*, 21 Okla. 610, 96 Pac. 742, 42 Okla. 79, 140 Pac. 1138. **Doing business.** 34 Okla. 229, 124 Pac. 972.

468. Record of appointment. A duly authenticated copy of the appointment and commission of such agent shall be filed and recorded in the office of the secretary of state, for which a fee therefor of one dollar shall be paid to the secretary and a like fee of one dollar for each subsequent appointment of any agent so filed. A certified copy of the appointment of said agent under the hand and seal of the secretary of state shall be sufficient evidence of the appointment of said agent in any court. The secretary of state shall prepare a list for distribution giving the names of all corporations with the name of their agent, showing the address of the agent by street and number, and shall include the same in his biennial report to the governor.

Sec. 1337, R. L. 1910.

History. L. 1909, p. 148; effective June 10, 1909.

469. Contracts void for noncompliance. If any such foreign corporation shall fail to comply with the foregoing provisions of this article, all its contracts with citizens of this State, entered into after the approval of this article, shall be void as to the corporation, and no court of this State shall enforce the same in favor of the corporation.

Sec. 1338, R. L. 1910.

History. L. 1909, p. 148; effective June 10, 1909.

Construed—does not apply to contract of employment entered into between corporation and its fiduciary agents in another state before corporation commenced to do business in Indian Territory. This decision under Act Congress, 1901, 31 Stat. 795, similar to above section. *Verdigris River Land Co. v. Stanfield et al.*, 25 Okla. 265, 105 Pac. 337.

Validity of contracts of foreign corporations before getting permission to do business. 1 L. R. A. (ns) 1941-n.

Imposition of penalty as affecting validity of contract made by foreign corporation without complying with the statutory conditions of doing business. 1 L. R. A. (ns) 688-n.

Right to cancellation of contract made with foreign corporation because it has not complied with the laws entitling it to do business within the State. 21 L. R. A. (ns) 797-n.

Enforceability in federal court, or court of another state, of a contract made by a foreign corporation which had not complied with the conditions of doing business within the State. 26 L. R. A. (ns) 929-n.

Enforceability of subscription to stock of foreign corporation that has not complied with local laws. 29 L. R. A. (ns) 92-n.
139 Pac. 1127, 41 Okla. 416, 137 Pac. 259.

470. Process served on secretary of state, when. In all cases where a cause of action shall accrue to a resident or citizen of the State of Oklahoma, by reason of any contract with a foreign

FOREIGN CORPORATIONS

corporation doing business in this State, or where any liability on the part of such foreign corporation shall accrue in favor of any citizen or resident of this State, whether in tort or otherwise, and such foreign corporation has not designated an agent in this State upon whom process may be served or has not an officer continuously residing in this State, upon whom summons or other process may be served so as to authorize a personal judgment, service of summons or other process may be had upon the secretary of state, and such service shall be sufficient to give jurisdiction of the person to any court in this State having jurisdiction of the subject matter, whether sitting in the county where the secretary of state is served or elsewhere in the State.

Sec. 1339, R. L. 1910.

History. L. 1909, p. 148; effective June 10, 1909. Revision: "Doing business in this State" inserted, as the statute could go no further than that and the section apparently only contemplates such corporations.

Construed. Nelson v. Deming Inv. Co., 21 Okla. 610, 96 Pac. 742.

Service of process. See L. 1910-11, p. 46, for cumulative act relating to service on foreign corporations and suits against same.

Original section (Wilson's St. Sec. 1227) amended Sec. 1169, S. 1893. Bes Line Con. Co. v. Schmidt, 16 Okla. 429, 85 Pac. 711.

Service must be made on agent. Construction of old statute. Bes Line Con. Co. v. Schmidt, 16 Okla. 429, 85 Pac. 711.

Same—if made on some other person, irregular. *Id.*

Who is managing agent of foreign corporation for purposes of service of process. 4 L. R. A. (ns) 460-n.

Exclusiveness of mode of service provided by statute requiring foreign corporations to designate person upon whom service of process may be made. 5 L. R. A. (ns) 298-n.

Who may be served with process in suit against a foreign corporation. 23 L. R. A. 490-n.

Service on insurance commissioner for foreign company. 23 L. R. A. 499-n.

Revocation by foreign corporation of appointment of attorney or agent to receive service of process. 30 L. R. A. (ns) 678-n.

150 Pac. 1067.

471. Scope of article. This article shall not be effective in cases where its enforcement would conflict with the powers of congress or the federal laws to regulate commerce between the states.

Sec. 1340, R. L. 1910.

History. L. 1909, p. 148; effective June 10, 1909. Revision: Originally part of preceding section.

41 Okla. 116, 137 Pac. 352.

42 Okla. 79, 140 Pac. 1138.

472. May not sue without complying. No foreign corporation, as above defined, which shall fail to comply with this article, can maintain any suit or action, either legal or equitable, in any of the courts of this State, upon any demand, whether arising out of contract or tort.

Sec. 1311, R. L. 1910.

History. L. 1909, p. 148; effective June 10, 1909.

Action—petition—demurrer. Petition, if otherwise sufficient, need not show that it has complied with law respecting right to do business. White Sewing Mach Co. v. Peterson et al., 23 Okla. 361, 100 Pac. 513.

Right of foreign corporation to prosecute or defend pending actions after dissolution under statutes of domicile or forum. 32 L. R. A. (ns) 151-n.

Same. To defend action. 17 L. R. A. (ns) 1117-d.

Effect, upon right of foreign corporation to maintain suit, of compliance with local law after suit is instituted. 23 L. R. A. (ns) 492-n.

41 Okla. 116, 137 Pac. 352.

473. Production of evidence required. It is hereby made the duty of every foreign corporation doing business in the State of

CORPORATIONS

Oklahoma in any action pending in any court of record within the State, wherein the State of Oklahoma or any of its officers in their official capacity are parties, upon the application of the State or said officers, and upon the order of the presiding judge of said court, authority for which is hereby conferred, upon reasonable notice, at a time and place within the State to be fixed by said court, to cause to appear for examination and inspection any of its officers, agents, books and papers.

Sec. 1342, R. L. 1910.

History. L. 1910, p. 165; effective March 24, 1910. Revision: Minor changes in language, for clearness; "conferred" substituted for "vested."

474. Violation of order—penalty. Any such foreign corporation failing or refusing to comply with the order named in the preceding section shall be fined in any sum not less than fifty dollars nor more than five hundred dollars, and each separate day such corporation fails or refuses to comply with such order shall constitute a separate offense.

Sec. 1343, R. L. 1910.

History. L. 1910, p. 165; effective March 24, 1910. Revision: Minor changes in language.

ARTICLE VIII.

DOMICILE OF BUSINESS CONCERNS—VENUE OF ACTIONS.

Sec.

- 475. Domicile of business houses.
- 476. Penalty for declaration of foreign domicile.
- 477. Same—duty of judge.
- 478. Same—forfeiture of license.
- 479. Punishment for conducting business after license revoked.
- 480. Effect of article on eminent domain.
- 481. Venue of actions against domestic corporations.
- 482. Actions against transportation or transmission companies.
- 483. Actions against foreign corporations and non-residents.
- 484. Service of summons on corporation.
- 485. Agent to receive service in each county.
- 486. Appointment to be recorded.
- 487. Service where no agent appointed.
- 488. Venue of actions and service of process—foreign corporations.
- 489. Corporation's non-compliance with law—venue—process.
- 490. Same—effect of revocation of charter.
- 491. Act merely cumulative.

475. Domicile of business houses. The domicile of every person, firm or corporation conducting a business in person, by agent, through an office, or otherwise transacting business within the State of Oklahoma, and which has complied with or may comply with the Constitution and laws of the State of Oklahoma, shall be for all purposes deemed and held to be the State of Oklahoma.

Sec. 1665, L. L. 1910.

History. L. 1907-8, p. 215.

39 Okla. 225, 119 Pac. 973.

31 Okla. 384, 120 Pac. 969.

19 Pac. 619, 19 Am. SC 254.

476. Penalty for declaration of foreign domicile. The licensee or charter to do business within the State of Oklahoma of every person, firm or corporation conducting a business in person, by agent, through an office or otherwise transacting business within said State of Oklahoma, who shall claim or declare in writing before

DOMICILE—VENUE OF ACTIONS

any court of law or equity within said State of Oklahoma, domicile within another state or foreign country, shall, upon such declaration, be immediately revoked.

Sec. 4666, R. L. 1910.

History. L. 1907-8, p. 215.

477. Same—duty of judge. It shall be the duty of the judge of any court in which any declaration or claim of domicile within another state or foreign country is filed, to report to the secretary of state and to furnish said secretary of state with an authenticated copy of any claim or declaration in writing made or filed, declaring domicile within another state or foreign country.

Sec. 4667, R. L. 1910.

History. L. 1907-8, p. 215.

478. Same—forfeiture of license. The secretary of state, immediately upon the receipt of the copy of the claim or declaration of any person, firm or corporation as aforesaid, shall declare the license or charter of any person, firm or corporation so filing said claim or declaration, forfeited and revoked.

Sec. 4668, R. L. 1910.

History. L. 1907-8, p. 215.

479. Punishment for conducting business after license revoked. Any person, firm or corporation conducting a business in person, by agent, through an office, or otherwise transacting business within the state of Oklahoma, whose license to do business within said state of Oklahoma shall have been revoked as aforesaid, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than one thousand dollars nor more than five thousand dollars for each day or part thereof they shall so conduct a business after the revocation of their license to do business within this State as aforesaid.

Sec. 4669, R. L. 1910.

History. L. 1907-8, p. 215.

480. Effect of article on eminent domain. Nothing in this article shall be construed to allow any corporation organized under the law of any other state, territory or foreign country to exercise the right of eminent domain in the State of Oklahoma.

Sec. 4670, R. L. 1910.

History. L. 1907-8, p. 216.

The foregoing article, effective May 26, 1908. Held unconstitutional in *St. L. & S. F. R. Co. v. Cross* 171 Fed. 480.

481. Venue of actions against Domestic corporations. An action, other than one of those mentioned in first three sections of this article, against a corporation created by the laws of this State, may be brought in the county in which it is situated, or has its principal office or place of business, or in which any of the principal officers thereof may reside, or be summoned, or in the county where the cause of action or some part thereof arose.

Sec. 1, Ch. 83, S. L. 1913, amending Sec. 4, Art. 1 Ch. 68, S. L. 1907-8.

Original sections cited, construed and applied. *State Life Ins. Co. v. Okla. City Nat. Bank et al.*, 21 Okla. 823, 97 Pac. 574.

CORPORATIONS

482. Actions against transportation or transmission companies. Actions may be commenced against any transportation or transmission company in the county where any person resides upon whom service of summons is authorized to be made, irrespective of the order in which such persons are named in this chapter, and irrespective of the residence of any superior officer or authorized person upon whom service of summons may be had; or in the county where the cause of action, or some part thereof, may have accrued; or, in any county through which or into which the lines of road or any part of the structure of such company may be, or pass; and the plaintiff may elect in which county he will bring the action.

Sec. 4675, R. L. 1910.

History. L. 1907-8, p. 591. Revision: Superfluous language omitted.

Under old section, (similar hereto) held, it applied to railroad company not owning tracks, but operating trains over same. *Hannibal & St. J. R. Co. v. Kanaley*, 38 Kan. 1, 17 Pac. 324.
32 Okla. 665, 123 Pac. 428.

483. Actions against foreign corporations and non-residents. In addition to the other counties in which an action may be brought against a non-resident of this State, or a foreign corporation, such action may be brought in any county in which there may be property of, or debts owing to, such defendant, or where such defendant may be found; if such defendant be a foreign insurance company, the action may be brought in any county where such cause of action, or any part thereof arose, or where the plaintiff resides, or where such company has an agent.

Sec. 4677, R. L. 1910.

History. S. 1893, Sec. 3927, as amended by L. 1907-8, p. 592.

Applied. *Carney et al. v. Taylor*, 4 Kan. 178. Followed in *Taylor v. Carney et al.*, 4 Kan. 512.

Foreign corporation—may be sued in states other than that where created in certain cases, as when it sends its officers or agents into another state to transact official business. *North Mo. R. R. Co. v. Akers*, 4 Kan. 453, 96 Am. Dec. 183. Modifying dictum in 10 Johns. 5.

No jurisdiction acquired of foreign corporation where only property which garnishee has belonging to defendant is without the state. *Wheat v. Platte City & Ft. D. R. Co. et al.*, 1 Kan. 370.

Action for recovery of money against non-resident may be brought in any county in which defendant may be found, or has property subject to payment of debts. *Bohart v. Republic Inv. Co.*, 19 Kan. 94, 30 Pac. 180.
32 Okla. 665, 123 Pac. 428.

484. Service of summons on corporation. A summons against a corporation may be served upon the president, mayor, chairman of the board of directors, or trustees, or other chief officer, or upon an agent duly appointed to receive service of process; or, if its chief officer is not found in the county, upon its cashier, treasurer, secretary, clerk or managing agent; or, if none of the above-aid officers can be found, by a copy left at the office or usual place of business of such corporation, with the person having charge thereof.

Sec. 4413, R. L. 1910.

History. *Edm.* 1117, S. 1893, Sec. 3912. Revision: Agent for service included, to harmonize with Sec. 1335, et seq.
See also Sec. 4413, notes, R. L. 1910.

SERVICE OF PROCESS—VENUE OF ACTIONS

Service on secretary—showing. Section construed. Service on secretary defective, where president within county. *Cunningham Commission Co. v. Rorer Mill & Elevator Co.*, 25 Okla. 133, 195 Pac. 676. Following 22 Okla. 689, 98 Pac. 949.

Why service was not made upon one of chief officers mentioned in statute must be shown by return, before return showing service upon any of the other officials named can be upheld. *St. L. & S. F. R. Co. v. Clark*, 17 Okla. 562, 87 Pac. 430.

Return must show that chief officer was not in county. *Ozark Marble Co. v. Still*, 24 Okla. 559, 193 Pac. 586.

Same—officer's return may be amended to conform to the facts. *Id.* Following 1 Kan. 561.

Service on agent not good, where he is in the state, unless authority existed under the law. *St. Clair v. Cox*, 106 U. S. 350, 27 L. Ed. 222.

Same—after company has ceased to do business, service not good. *Id.*

Under Indian Territory laws, return of summons stating it was served upon a named person (general manager), without showing that certain officers were absent from county, was void. *Ravia Granite Ballast Co. v. Wilson*, 22 Okla. 689, 98 Pac. 949.

KANSAS.

Service failing to show that person upon whom made was one of the officers named, is not good under this section. *Dickerson v. B. & M. R. R. Co.*, 43 Kan. 702, 23 Pac. 936.

Same—not showing it was upon any person named as service agent of a railroad company, insufficient under this section and Secs. 4717-4719. *Id.*

Right to serve process in an action against corporation upon non-resident officer who is within state as a party or witness. 24 L. R. A. (ns) 276-n. 37 Okla. 286, 132 Pac. 891.

485. Agent to receive service in each county. Every railroad company and every stage company doing business in this State or having agents doing business therein for such company, is hereby required to designate some person residing in each county into which its railroad line or stage route may or does run, or in which its business is transacted, on whom all process and notices issued by any court of record or justice of the peace of such county may be served.

Sec. 4717, R. L. 1910.

History. Kan. 1148; S. 1893, Sec. 3943.

Construed. *St. L. & S. F. R. Co. v. Clark*, 17 Okla. 562, 87 Pac. 430.

KANSAS.

Construed. See Sec. 4715, notes.

Cited. *A. T. & S. F. R. Co. v. Sage*, 49 Kan. 524, 31 Pac. 140.

Applies to railroad company not owning tracks, but running trains thereon as lessee. *H. & St. J. R. Co. v. Kanaley*, 39 Kan. 1, 17 Pac. 321.

Service by leaving copy with ticket agent at depot, good, where company had designated no agent in county. *M., K. & T. Ry. Co. v. Crowe*, 9 Kan. 196.

Admission or waiver of service by statutory agent of corporation appointed to receive service. 2 L. R. A. (ns) 389-n. 39 Okla. 192, 201, 134 Pac. 949.

486. Appointment to be recorded. In every case such railroad company and stage company shall file a certificate of the appointment and designation of such person, in the office of the clerk of the district court of the county in which such person resides; and the service of any process upon the person so designated, in any civil action shall be deemed and held to be as effectual and complete as if service of such process were made upon the president or other chief officer of such company. Any railroad company or stage company may revoke the appointment and designation of such person upon whom process may be served, as hereinbefore pro-

CORPORATIONS

vided, by appointing any other person qualified as above specified, and filing a certificate of such appointment, as aforesaid; but every second or subsequent appointment shall also designate the person whose place is filled by such appointment.

Sec. 4718, R. L. 1910.

History. Kan. 4149; S. 1893, Sec. 3944.

Cited and applied. St. L. & S. F. R. R. Co. v. Clark, 17 Okla. 562, 87 Pac. 430.

Old section referred to. Bes Line Con. Co. v. Schmidt, 16 Okla. 429, 85 Pac. 711.

KANSAS.

Construed. See Sec. 4715, notes.

487. Service where no agent appointed. If any railroad or stage company fail to designate or appoint such person, as provided and required in the preceding sections, such process may be served on any local superintendent of repairs, freight agent, agent to sell tickets, or station keeper, of such company, in such county or such process may be served by leaving a copy thereof, certified by the officer to whom the same is directed to be a true copy, at any depot or station of such company in such county, with some person in charge thereof, or in the employ of such company, and such service shall be held and deemed complete and effectual.

Sec. 4719, R. L. 1910.

History. Kan. 4150; S. 1893, Sec. 3945.

Construed. St. L. & S. F. R. Co. v. Clark, 17 Okla. 562, 87 Pac. 430.

Old section referred to. Bes Line Con Co. v. Schmidt, 16 Okla. 429, 85 Pac. 711.

Station—under facts in this case, held, there was no such "station" as contemplated in the statute. C. R. I. & P. Co. v. Groves et al., 7 Okla. 315, 54 Pac. 484.

KANSAS.

Construed. See Sec. 4715, notes.

Applies only to process strictly so called, and does not apply to notice prepared and served by the party and not issued by or upon the order or at the instance of the court. K. P. Ry. Co. v. Thacher et al., 17 Kan. 92.

488. Venue of actions and service of process—foreign corporations. Any foreign corporation, doing business in the State of Oklahoma, and any person now or hereafter having any cause of action against such corporation, arising on contract, tort, or otherwise, may file suit in any county in the State of Oklahoma where the plaintiff resides or where said corporation has its principal place of business, or has property, or in any county where said corporation has an agent appointed upon whom service of summons or other process may be had.

Sec. 1, Ch. 26, S. L. 1910-11.

489. Corporation's non-compliance with law — venue — process. Any foreign corporation, doing business in the State of Oklahoma, having failed either to appoint an agent upon whom service of summons or other process may be had, or failed to file in the office of the secretary of state a duly authenticated copy of its articles of incorporation or charter, or having failed to pay the license fee as required by law, then in the event of said foreign corporation having failed to comply with any of the provisions of

FRAUDS, ETC.

the law as above referred to, any person now or hereafter having any cause of action against any foreign corporation may file suit against said foreign corporation in any county in the State and service of summons or any process upon the secretary of state shall be sufficient to give jurisdiction of the person to any court in this State having jurisdiction of the subject-matter.

Sec. 2, Ch. 26, S. L. 1910-11.
See 42 OKla, 811, 113 Pac. 41.

490. Same—effect of revocation of charter. Any foreign corporation having complied with the law by appointing an agent upon whom service of summons or other process may be had, or by filing an authenticated copy of its articles of incorporation or charter with the secretary of state, or having paid the license fee as required by law, and heretofore the charter of said corporation having been revoked by the secretary of state or other proper officer, or if the charter of any foreign corporation should hereafter be revoked by the secretary of state or other proper officer, then any person having now or hereafter any cause of action against such foreign corporation, may file suit against said foreign corporation in any county in the State of Oklahoma and service of summons or other process upon the secretary of state shall be sufficient to give jurisdiction of the person to any court in this State having jurisdiction of the subject-matter, and under the provisions of this act jurisdiction is hereby conferred upon any court having jurisdiction of the subject-matter, sitting in any county in this State, whether it be in the county where the secretary of state is served or resides, or elsewhere in said State.

Sec. 3, Ch. 26, S. L. 1910-11.

491. Act merely cumulative. This act is intended to be cumulative and in addition to any other law heretofore passed on the same subject, and shall not repeal any law on this subject.

Sec. 4, Ch. 26, S. L. 1910-11.

ARTICLE IX.

FRAUDS—CONTRIBUTING TO POLITICAL CAMPAIGNS.

Sec.

- 492. Forgery of public and corporate seals.
- 493. Fraud in subscription of stock.
- 494. Fraud in procuring organization of stock company.
- 495. Unauthorized use of names.
- 496. Omitting to enter receipt.
- 497. Destroying or falsifying books.
- 498. Publishing false reports of corporation.
- 499. Refusing to permit inspection of books.
- 500. Insolvencies deemed fraudulent.
- 501. How punishable.
- 502. Violation of duty by officer of corporation.
- 503. Directors presumed to have knowledge.
- 504. Director presumed to have assented, when.
- 505. Same—when director was absent from meeting.
- 506. Foreign corporation no defense.
- 507. Director defined.
- 508. Fraudulent advertising.
- 509. Corporation prohibited from contributing to political campaigns.
- 510. Employees to be allowed time to vote.
- 511. Corporate contributions to campaign funds.
- 512. Other offenses by corporations.
- 513. Same—by agents.

CORPORATIONS

492. Forgery of public and corporate seals. Any person who, with intent to defraud, forges, or counterfeits the great or privy seal of this State, the seal of any public office authorized by law, the seal of any court of record, or the seal of any corporation created by the laws of this State, or of any other state, government or country, or any other public seal authorized or recognized by the laws of this State, or of any other state, government or country, or who falsely makes, forges or counterfeits any impression purporting to be the impression of any such seal, is guilty of forgery in the second degree.

Sec. 2623, R. L. 1910.

History. Dak. 6751; S. 1890, Sec. 2369. Revision: "Including judge of probate seals" stricken, as the county courts in this State are courts of record.

493. Fraud in subscription for stock. Any person who signs the name of a fictitious person to any subscription for, or agreement to take stock in any corporation, existing or proposed, and every person who signs, to any subscription or agreement, the name of any person, knowing that such person has not means or does not intend in good faith to comply with all the terms thereof, or under any understanding or agreement that the terms of such subscription or agreement are not to be complied with or enforced, is guilty of a misdemeanor.

Sec. 2721, R. L. 1910.

History. Dak. 6841; S. 1890, Sec. 2472.

494. Fraud in procuring organization of stock company. Any officer, agent or clerk of any corporation, or of any persons proposing to organize a corporation, or to increase the capital stock of any corporation, who knowingly exhibits any false, forged or altered book, paper, voucher, security or other instrument of evidence to any public officer or board authorized by law to examine the organization of such corporation, or to investigate its affairs, or to allow an increase of its capital with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in the penitentiary not exceeding ten years, and not less than three years.

Sec. 2722, R. L. 1910.

History. Dak. 6812; S. 1890, Sec. 2473.

495. Unauthorized use of names. Any person who, without being authorized so to do, subscribes the name of another to, or inserts the name of another in any prospectus, circular or other advertisement or announcement of any corporation or joint stock association existing or intended to be formed, with intent to permit the same to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member or promoter of such corporation or association, is guilty of a misdemeanor.

Sec. 2723, R. L. 1910.

History. Dak. 6813; S. 1890, Sec. 2474.

Validity of subscription induced by false statements that certain other persons were to invest in the enterprise. 29 L. R. A. (n.s.) 477-n.

FRAUDS, ETC.

496. Omitting to enter receipt. Any director, officer or agent of any corporation or joint stock association, who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and who, with intent to defraud, omits to make or cause or direct to be made, a full and true entry thereof in the books or accounts of such corporation or association, is guilty of a misdemeanor.

Sec. 2724, R. L. 1910.

History. Dak. 6851; S. 1890, Sec. 2482.

497. Destroying or falsifying books. Any director, officer, agent or member of any corporation or joint stock association, who, with intent to defraud, destroys, alters, mutilates or falsifies any of the books, papers, writings or securities belonging to such corporation or association, or makes or concurs in making any false entry, or omits or concurs in omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in the penitentiary not exceeding ten years and not less than three, or by imprisonment in a county jail not exceeding one year, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment.

Sec. 2725, R. L. 1910.

History. Dak. 6852; S. 1890, Sec. 2483.

498. Publishing false reports of corporation. Any director, officer or agent of any corporation or joint stock association, who knowingly concurs in the making, or publishes any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false, other than as are mentioned in sections 2722 and 2723, or wilfully refuses or neglects to make or deliver any written report, exhibit or statement required by law, is guilty of a misdemeanor.

Sec. 2726, R. L. 1910.

History. Dak. 6853; S. 1890, Sec. 2484.

False statements in reports required by statute to be made to public officers as basis of action by individuals at common law for deceit against officers or directors personally. 6 L. R. A. (ns) 872-n.

499. Refusing to permit inspection of books. Any officer or agent of any corporation having or keeping an office within this State, who has in his custody or control any book, paper or document of such corporation, and who refuses to give to a stockholder or member of such corporation, lawfully demanding, during office hours, to inspect or take a copy of the same, or any part thereof, a reasonable opportunity so to do, is guilty of a misdemeanor.

Sec. 2727, R. L. 1910.

History. Dak. 6854; S. 1890, Sec. 2485.

Right of stockholder to inspect books of corporation. 20 L. R. A. (ns) 185n; 30 L. R. (ns) 291-n.

500. Insolvencies deemed fraudulent. Every insolvency of a moneyed corporation is deemed fraudulent unless its affairs appear, upon investigation, to have been administered fairly and legally, and generally with the same care and diligence that agents

CORPORATIONS

receiving a compensation for their services are bound by law to observe.

Sec. 2728, R. L. 1910.

History. Dak. 6855; S. 1890, Sec. 2486.

501. How punishable. In every case of a fraudulent insolvency of a moneyed corporation, every director thereof who participated in such fraud, if another punishment is prescribed therefor by this chapter, or any of the acts which are specified as continuing in force, is guilty of a misdemeanor.

Sec. 2729, R. L. 1910.

History. Dak. 6856; S. 1890, Sec. 2487.

502. Violation of duty by officer of corporation. Any director of any moneyed corporation who wilfully does any act, as such director, which is expressly forbidden by law, or wilfully omits to perform any duty expressly imposed upon him as such director, by law, the punishment for which act or omission is not otherwise prescribed by this article, or by some of the acts which it specifies as continuing in force, is guilty of a misdemeanor.

Sec. 2730, R. L. 1910.

History. Dak. 6857; S. 1890, Sec. 2488.

Liability of directors to the corporation. 55 L. R. A. 751-n.

Personal liability of officer for act or transaction in excess of corporate powers or in violation of law. 6 L. R. A. (ns) 1003-n.

Jurisdiction of equity over suits by a corporation or its representative to hold the directors or officers liable for losses occasioned by their fraud, bad faith, or negligence. 8 L. R. A. (ns) 739-n.

503. Director presumed to have knowledge. Any director of a corporation or joint stock association is deemed to possess such a knowledge of the affairs of his corporation, as to enable him to determine whether any act proceeding or omission of its directors, is a violation of this article.

Sec. 2731, R. L. 1910.

History. Dak. 6858; S. 1890, Sec. 2489.

How far corporation charged with knowledge of managing officer engaged in illegal act. 2 L. R. A. (ns) 993-n.

504. Director presumed to have assented, when. Any director of a corporation or joint stock association, who is present at a meeting of the directors at which any act, proceeding or omission of such directors, in violation of this article occurs, is deemed to have concurred therein, unless he at the time causes, or in writing requires, his dissent therefrom to be entered in the minutes of the directors.

Sec. 2732, R. L. 1910.

History. Dak. 6859; S. 1890, Sec. 2490.

505. Same—when director was absent from meeting. Any director of a corporation or joint stock association, although not present at the meeting of the directors at which any act, proceeding or omission of such directors, in violation of this article, occurs, is deemed to have concurred therein, if the facts constituting such violation appear on the record or minutes of the proceedings of the board of directors, and he remains a director of the same company

FRAUDS, ETC.

for six months thereafter, and does not, within that time, cause or in writing require his dissent from such illegality to be entered in the minutes of the directors.

Sec. 2733, R. L. 1910.

History. Dak. 6860; S. 1890, Sec. 2491.

506. Foreign corporations no defense. It is no defense to a prosecution for a violation of the provisions of this article, that the corporation was one created by the laws of another state, government or country, if it was one carrying on business, or keeping an officer thereof, within this State.

Sec. 2734, R. L. 1910.

History. Dak. 6861; S. 1890, Sec. 2492.

507. Director defined. The term "director" as used in this article embraces any of the persons having by law the direction or management of the affairs of a corporation by whatever name such persons are described in its charter, or known by law.

Sec. 2735, R. L. 1910.

History. Dak. 6862; S. 1890, Sec. 2493.

508. Fraudulent advertising—misrepresenting wares—penalty. That any person, firm, corporation or association who, with intent to sell or in any wise dispose of merchandise, securities, service or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates or places before the public, or causes directly or indirectly to be made, published, disseminated, circulated or placed before the public in this State, in a newspaper or other publication or in form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, known by him to be deceptive or misleading, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than \$10.00 nor more than \$50.00 or by imprisonment in the county jail not exceeding twenty (20) days, or both such fine and imprisonment.

Sec. 1, Ch. 61, S. L. 1915.

509. Corporations prohibited from contributing to political campaigns. No corporation organized or doing business in this State shall be permitted to influence elections or official duty by contributions of money or anything of value.

Sec. 40 (257), Art. 9, Const

510. Employees to be allowed time to vote. Every corporation, firm, association or individual who, on election day, has an elector employed or in his service, and every foreman, superinten-

CORPORATIONS

dent or other person in charge of employees, shall grant each of said employees two hours of time during the period when the election is open in which to vote, and if such employee be in the county or at such distance from the voting place that more than two hours are required in which to attend such elections, then he shall be allowed a sufficient time in which to cast his ballot, and such corporation, firm, or association, individual, foreman, superintendent or other person in charge of such laborers, shall select the hours which such employees are to be allowed in which to attend such elections, and shall notify each of the employees which hours they are to have in which to vote, and any corporation, firm or association, individual, foreman or superintendent who fails to so notify such employees as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than fifty nor more than five hundred dollars for each elector whom they failed to so notify, and any individual with such electors employed, or foreman or superintendent, who fails to so notify such employee, shall in addition to said fine, be, upon conviction, imprisoned in the county jail not less than two nor more than six months.

Sec. 3137, R. L. 1910.

History. L. 1907-8, p. 348.

511. Corporate contributions to campaign funds. No corporation chartered under the laws of this State, or foreign corporation admitted to do business in this State, shall contribute to any campaign fund of any political party of this State or to any other person for the benefit of such party or its candidates, nor shall they, through any agent, officer, representative, employee, attorney, or any other person or persons, so contribute. Nor shall any such corporation, except a banking corporation in this State directly or through any other person, make any loan of money, or anything of value, or give or furnish any privilege, favor or other thing of value to any political party, or to any representative of a political party, or to any other person for it, or to any candidate upon the ticket of any political party. Any agent, employee, representative, official, attorney, or any other person, who acts for a corporation in extending any of the benefits herein prohibited, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty nor more than one thousand dollars, and imprisonment in the county jail not less than thirty nor more than one hundred and twenty days: Provided, that the provisions of this section shall apply to non-partisan candidates.

Sec. 3138, R. L. 1910.

History. L. 1907-8, p. 348.

512. Other offenses by corporations. Any corporation, whether chartered under the laws of this State, or of a foreign state, and which has been permitted to do business herein, which, through its officials, employees, agents attorneys, representatives or some other person or in any other manner, directly or indirectly, influences or attempts to influence, by bribe, favor, promise, inducement,

EMPLOYEES

threat, intimidation, importuning or beseeching to control the vote of any employee or other person shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than five hundred nor more than five thousand dollars, and the person or persons so acting for such corporation in the violation of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than five hundred nor more than one thousand dollars, and imprisoned in the county jail not less than sixty nor more than one hundred and twenty days.

Sec. 3139, R. L. 1910.

History. L. 1907-8, p. 319.

513. Same—by agents. When any official, agent, attorney or employee of a corporation has been shown to have violated the provisions of sections 3138 and 3139, it shall be presumed that he was acting for such corporation, and the burden shall be upon the accused corporation to show that such official, agent, attorney or employee was not acting for it or with its sanction.

Sec. 3140, R. L. 1910.

History. L. 1907-8, p. 349.

ARTICLE X.

CORPORATIONS—EMPLOYEES.

- Sec.
514. Eight hours to constitute day's work—State or County.
515. Nine hour day for women—business included.
516. Exceptions in times of calamity or rush.
517. Conveniences for women—seats for rest.
518. Penalty for violation.
519. Monthly wages to be paid semi-monthly in certain occupations.
520. Payment in non-negotiable paper a misdemeanor.
521. Penalty for violating two preceding sections.
522. Transportation and transmission companies to have two pay days each month.
523. Failure of company to comply—punishment.
524. Bonds of employees—free choice of sureties by employees.
525. Resident sureties required.
526. Corporation to give letter to employee leaving service.
527. Blacklisting.
528. Same—penalty.

514. Eight hours to constitute a day's work—State or county. Eight hours to constitute a day's work in all cases of employment by and on behalf of the State or county or municipality.

Sec. 1 (350), Art. 23, Const.

Eight-hour law held constitutional. Manifest purpose of this provision is to promote industrial welfare of the people by fixing a high standard for employees on public work. Paving contract. *Byars v. State*, 2 Okla. Cr. 481, 102 Pac. 804.

(For other laws in reference to the above, see Secs. 3757-3759, R. L. 1910.)

515. Nine-hour day for women — business included. No female shall be employed or permitted to work in any manufacturing, mechanical or mercantile establishment, laundry, bakery, hotel or restaurant, office building or warehouse, or telephone establishment or office or printing establishment, or book bindery, or any theater, show house or place of amusement, more than nine hours in any one day.

Sec. 1, Ch. 148, S. L. 1915.

516. Exceptions in times of calamity or rush—double pay. The hours of work may be so arranged to permit the employment

CORPORATIONS

of females at any time so that they shall not work more than nine hours within twenty-four hours of any one day: Provided, however, that in time of great disaster, calamity, or epidemic, telephone establishments may work their operators, with their consent, for a greater number of hours in any one day than above stated; said operators to be paid not less than double their regular compensation for such extra time: Provided this act shall not apply to females who are registered pharmacists, or employed as stenographers, or nurses, and Provided, further, however, that in case of emergency in hotels and restaurants, females may work to a maximum of ten hours during the twenty-four hours with their consent; such females to be paid not less than double their regular compensation for such extra time; and Provided, further, that this act shall apply only to towns and cities containing a population of 5,000 or more as shown by the last federal census, or any federal census hereafter taken.

Sec. 2, Ch. 148, S. L. 1915.

517. Conveniences for women—seats for rest. Every employer in any manufacturing, mechanical or mercantile establishment, or workshop, laundry, printing office, dress making or millinery establishment, hotel, restaurant, or theater, or telegraph or telephone establishment and office or any other establishment employing any female, shall provide suitable seats for all female employees and permit them to use such seats when not engaged in the active performance of the duties of their employment.

Sec. 3, Ch. 148, S. L. 1915.

518. Penalty for violation. Any employer, overseer, superintendent, foreman, or other agent of any such employer, who shall require any female to work in any of the places mentioned in section 1 and 2 more than the number of hours provided for in this act, during any day of twenty-four hours, or who shall fail, neglect or refuse to so arrange the work of females employed in said places mentioned in section 1 and 2, so that they shall work more than the number of hours provided for in this act during any day of twenty-four (24) hours or the number of hours prescribed in this act, in any one week, or who shall fail, neglect or refuse to provide suitable seats as provided in section 3, of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars, or imprisonment in the county jail not less than five (5) nor more than thirty (30) days, or by both such fine and imprisonment.

Sec. 4, Ch. 148, S. L. 1915.

519. Money wages to be paid semi-monthly in certain occupations. Every corporation, association, company, firm or person in the State, engaged in mining coal, ore or other minerals or quarrying stone, or in manufacturing iron, steel, lumber, staves, heading for barrels, brick, tile and tile machinery, agricultural or

EMPLOYEES

mechanical implements or any article of merchandise, shall pay each employee of such corporation, association, company, firm or person, if demanded, at least twice each calendar month, the amount due such employee for labor, and such payment shall be in lawful money of the United States, and the employee shall not be deemed to have waived any right or rights herein mentioned because of any contract to the contrary.

Sec. 3760, R. L. 1910.

History. L. 1909, p. 637; effective June 10, 1909.

Validity and effect of statutes regulating time of payment of wages. 15 L. R. A. (ns) 359-n; 27 L. R. A. (ns) 253-n.

Constitutionality of statutes as to mode of payment of wages. 21 L. R. A. 797-n.

Validity and effect of statutes requiring wages to be paid in lawful money. 28 L. R. A. 273-n.

520. Payment in non-negotiable paper a misdemeanor. Every corporation, association, company, firm or person, or any member, agent or employee thereof, who shall publish, issue or circulate any check, card or other paper which is not commercial paper, payable at a fixed time in any bank in this State, at its full face value, in lawful money of the United States, or any card or check issued, which is not payable in lawful money of the United States on each regular pay day, to any employee of any such corporation, association, company, firm or person, in payment for any work or labor done by such employee, shall be guilty of a misdemeanor.

Sec. 3761, R. L. 1910.

History. L. 1909, p. 638; effective June 10, 1909.

521. Penalty for violating two preceding sections. Any corporation, association, company, firm or person in this State, engaged in mining coal, ore or other minerals, or quarrying stone, or in manufacturing iron, steel, lumber, staves, headings for barrels, brick, tile, and tile machinery, agricultural or mechanical implements or any article of merchandise, upon conviction of a violation of any of the provisions of the two preceding sections, shall be fined in any sum not less than fifty dollars nor more than two hundred dollars.

Sec. 3762, R. L. 1910.

History. L. 1909, p. 638; effective June 10, 1909.

522. Transportation and transmission companies to have two pay days each month. Every railroad corporation, telephone and telegraph company, express company, street railway company, and every transportation or transmission company operating and doing business in the State of Oklahoma, shall pay each employee of such railroad, telephone and telegraph, street railway, transportation or transmission company, or employee of such corporation, association, company, firm, person or persons, at least twice each calendar month.

Sec. 1, Ch. 46-S. L. 1913.

523. Failure of company to comply—punishment. Any corporation that shall, through its president, or otherwise, violate section 1 of this act, shall be deemed guilty of a misdemeanor and on

CORPORATIONS

conviction thereof shall be fined in any sum not less than fifty dollars nor more than five hundred dollars for each offense.

Sec. 2, Ch. 46, S. L. 1913.

524. Bonds of employees—free choice of sureties by employee. No common carrier authorized to do business in this State, when requiring of an employee a bond or undertaking of any nature whatever, shall require such employee to have such bond or undertaking executed as surety by any particular person, company, corporation, association, or firm, or by any one or more of any number of such persons, companies, corporations, associations or firms named by such common carrier; and no such common carrier shall reject any such bond or undertaking for any reason other than the financial insufficiency of such bond or undertaking. -

Sec. 871, R. L. 1910.

History. L. 1910, p. 14.

525. Resident sureties required. No common carrier authorized to do business in this State, when requiring of any employee a bond or undertaking of any nature whatsoever, shall require as surety thereon any person not a resident of this State; nor shall any such common carrier accept as such surety any company, corporation or association, unless the same is a corporation duly organized under the laws of Oklahoma, or which shall have designated an agent residing within this State upon whom service of legal process against it may be had, as provided by law for foreign corporations doing business in this State, and which shall also have in this State a general office where it shall require that every such bond or undertaking shall be approved, if approved and canceled it canceled, and where a complete record thereof shall be kept.

Sec. 872, R. L. 1910.

See also Secs. 873 and 874, R. L. 1910.

526. Corporation to give letter to employee leaving service. Whenever any employee of any public service corporation, or of a contractor, who works for such corporation, doing business in this State, shall be discharged or voluntarily quits the service of such employer, it shall be the duty of the superintendent or manager, or contractor, upon request of such employee, to issue to such employee a letter setting forth the nature of the service rendered by such employee to such corporation or contractor and the duration thereof, and truly stating the cause for which such employee was discharged from or quit such service; and, if any such superintendent, manager or contractor shall fail or refuse to issue such letter to such employee, when so requested, or shall wilfully or negligently refuse or fail to state the facts correctly, such superintendent, manager or contractor shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars and not more than five hundred dollars, and by imprisonment in the county jail for a period of not less than one

MONOPOLIES—ANTI-TRUST LAWS

month and not exceeding one year: Provided, that such letter shall be written, in its entirety, upon a plain sheet of white paper to be selected by such employee. No printed blank shall be used, and if such letter be written upon a typewriter, it shall be signed with pen and black ink and immediately beneath such signature shall be affixed the official stamp, or seal, of said superintendent, manager or other officer of such corporation or contractor, in an upright position. There shall be no figures, words or letters used, upon such piece of paper, except such as are plainly essential, either in the date line, address, the body of the letter or the signature and seal or stamp thereafter, and no such letter shall have any picture, imprint, character, design, device, impression or mark, either in the body thereof or upon the face or back thereof, and any person of whom such letter is required who fails to comply with the foregoing requirements shall be liable to the penalties above prescribed.

Sec. 3769, R. L. 1910.

History. L. 1907-S, p. 516; effective August 24, 1908.

Duty to recommend or give clearance card to discharged employee. 62 L. R. A. 922-n.

527. Blacklisting. No firm, corporation or individual shall blacklist or require a letter or relinquishment, or publish, or cause to be published, or blacklisted, any employee, mechanic or laborer, discharged from or voluntarily leaving the service of such company, corporation or individual, with intent and for the purpose of preventing such employee, mechanic or laborer, from engaging in or securing similar or other employment from any other corporation, company or individual.

Sec. 3770, R. L. 1910.

History. L. 1897, p. 144; effective March 11, 1897.

528. Same—penalty. Any person, firm or corporation violating the preceding section shall be fined in any sum not less than one hundred dollars, nor more than five hundred dollars, and any person so blacklisted shall have a right of action to recover damages.

Sec. 3771, R. L. 1910.

History. L. 1897, p. 144; effective March 11, 1897.

CHAPTER VIII.

MONOPOLIES, ANTI-TRUST LAWS.

ARTICLE I.

DISCRIMINATION—COMBINATIONS IN RESTRAINT OF TRADE— IN GENERAL.

Sec.

- 529. Discrimination between persons, communities, etc.—monopoly prohibited.
- 530. Trusts declared illegal.
- 531. Duty of Attorney General.
- 532. Same—restraining orders—receiver.
- 533. Duty of receiver—evidence.
- 534. Stay bond.
- 535. Recourse of injured parties.
- 536. Foreign corporations forfeit license by violation.
- 537. Discrimination unlawful.
- 538. Penalty and recovery.
- 539. Indictment or information shall state what.
- 540. Witnesses.
- 541. County attorneys to prosecute.
- 542. Combination in restraint of trade unlawful.

MONOPOLIES—ANTI-TRUST LAWS

- 543. Penalty for corporation owning stock of competitor.
- 544. State to have lien on property of law breaking corporation.
- 545. Public business defined.
- 546. Proof required.
- 547. Previous and continuing violations included.
- 548. Remedies additional to former remedies.
- 549. No recovery for goods sold in violation hereof.
- 550. Purchaser may recover damages.
- 551. County attorneys to prosecute—reward.
- 552. "Unfair discrimination"—definition.
- 553. Investigations—actions—revocation of charters and permits.
- 554. Violation of act—punishment.
- 555. "Combination" of corporations—definition.
- 556. "Unfair competition"—definition—exceptions.
- 557. Damages to weaker competitor—liability of "combination."
- 558. Act cumulative to other legal remedies.

529. Discrimination between persons, communities, etc.—monopoly prohibited. Until otherwise provided by law, no person, firm, association, or corporation engaged in the production, manufacture, distribution, or sale of any commodity of general use, shall for the purpose of creating a monopoly or destroying competition in trade, discriminate between different persons, associations, or corporations, or different sections, communities, or cities of the State, by selling such commodity at a lower rate in one section, community, or city than in another, after making due allowance for the difference, if any, in the grade, quantity, or quality, and in the actual cost of transportation from the point of production or manufacture.

Sec. 45 (262), Art. 9, Const.

Municipal water plant—equality of rates. Municipal corporations operating water plants are not required to give absolute equality of service or rates, but are only required not to act arbitrarily in exercising the discretion vested in them in such matters, and not to maintain a discrimination between patrons which is essentially unjust. *Pretz v. City of Edmond et al.*, 168 Pac. 800.

Same—discrimination. The law against unjust discriminations rests in public policy, and it is not in violation of the public policy of the State, in the absence of specific legislation on the subject, to permit discriminations by a municipality in favor of a state institution which redounds to the intellectual, moral, and commercial benefit of the general public resident in such municipality. *Id.*

Same—donation to state institution. Under the facts alleged in the instant case, held, that the donation of water by the city of Edmond to the Central State Normal School does not constitute an unjust discrimination against a citizen, taxpayer, and water consumer of the city who is required to pay a fixed rate for water used by him. *Id.*

530. Trust declared illegal. Every act, agreement, contract, or combination in the form of trust, or otherwise, or conspiracy in restraint of trade or commerce within this State, which is against public policy, is hereby declared to be illegal.

Sec. 8720, R. L. 1910.

History. L. 1907 S. p. 751.

Defined. Sections 6729-6743 of Wilson's Statutes are not in conflict with Pub. Act 1910, Chapter 10, Law 2, and same constituted a valid statute of Oklahoma Territory. *W. v. W. & M. v. M. v. D. v. C. v. C.*, 25 Okla. 558, 106 Pac. 969. Follow-up. 27 Okla. 509, 99 Pac. 911.

Purchase of commodities—unlawful. Where business is in violation of above act, goods are not liable for purchase price. *Id.*

Same—foreign contract illegal where made, may be pleaded in defense of a suit brought in this jurisdiction, where not contrary to public policy of this State. *Id.* Following: 14 F. S. 549, 212 F. S. 227; 24 Okla. 188, 103 Pac. 720; 27 Okla. 509, 99 Pac. 911.

MONOPOLIES—ANTI-TRUST LAWS

Territorial anti-trust act not void because congress had enacted a law covering same subject matter; the territorial act going further than the federal act did and not being in conflict therewith. *Ter. v. Long Bell Lumber Co. et al.*, 22 Okla. 890, 99 Pac. 911.

Illegal trusts under modern anti-trust laws. 64 L. R. A. 689-n.

Is combination to control the price of labor or other personal service per se a violation of statute against trusts and monopolies. 23 L. R. A. (ns) 1260-n. 8 Okla. Cr. 686, 130 Pac. 316; 7 Okla. Cr. 59, 122 Pac. 243.

531. Duty of attorney general. If the attorney general shall have sufficient evidence that the provisions of the Constitution or any law pursuant thereto, against the establishment or maintenance of any trust, monopoly or unreasonable restraint of trade, or any of the provisions of this article, are about to be or have been violated by any person, firm or corporation or association engaged in any quasi-public business or having a virtual monopoly of any commodity or business, with the intention or effect of destroying competition or restraining trade, contrary to the provisions of this article, he may file information in the supreme court, and by proceeding as against nuisance, enjoin and restrain said combination or arrangement, or any of its members, or by a proceeding analagous to libel, cause any or all the personal property of said offending person, firm or corporation or association, used or to be used, in whole or in part, in any transaction which, in effect or intent, hinders competition, or produces unreasonable restriction of trade, to be forfeited to the State, in the discretion of the court, together with all the commodities in the possession or control of such offending corporation, person, firm or association, used or intended for such use in violation of the Constitution or laws pursuant thereto, or this article; and he may take both said proceedings.

Sec. 8221, R. L. 1910.

History. L. 1907-8, p. 751. Revision: Minor changes in language, original section cut into four, for convenience of reference and proper division of the subject matter thereof.

532. Same—restraining order—receiver. Upon the filing of such petition, or at any time thereafter, the attorney general may apply for an injunction pending the action, and the appointment of a receiver for any or all of the property of such person, firm, corporation or association. Upon such application, the court, or a majority of the justices thereof, if in vacation, is authorized to issue a restraining order pending the action, enjoining the defendant from changing in any way the business, records, books, instruments or property to them belonging, or by them used, directly or indirectly, and to issue a rule to show cause why a receiver should not be appointed, and after notice of such rule shall have been served on the defendant or defendants or any managing agent of said defendant or defendants within this State, and an opportunity to be heard having been given, said receiver may be appointed in the discretion of the court, to take charge of the property of the defendant or defendants so notified.

Sec. 8222, R. L. 1910.

History. See note to preceding section.

MONOPOLIES—ANTI-TRUST LAWS

533. Duty of receiver—evidence. Such receiver shall preserve said property free from any illegal arrangement until the termination of the litigation, and thereafter dispose of the same according to law; or any other remedy may be applied, or both, more effectually to produce and consummate such preservation or forfeiture or both; and said court shall be authorized by appointed master in chancery or otherwise, in its discretion, to receive evidence in any county in the State according to the rules of civil procedure, and have findings of fact made thereon for said court; and said master in chancery shall have compulsory process for witnesses and the production of books and papers from any part of the State, and for this purpose the executive officers of said court, or any of the district courts of this State, shall be empowered to serve mesne and final process; and the services of said master in chancery, or other person appointed by the court, shall be paid for as costs by the losing parties in said cause, in an amount equal to the fees that would have been earned therein if a notary public had received said testimony, together with a sum of not exceeding ten dollars per day, in the discretion of the court, and the actual expenses for each day that testimony is actually received; and testimony and evidence in such action may also be taken by deposition anywhere within or without this State, as in civil actions in the district court. In the event of a violation of any order of the court therein, and a proceeding grows out of the same in the nature of contempt, if the defendant demand a trial by jury, the court may transfer said contempt proceedings to any district court of the State for trial by jury and a verdict; but the judgment, if any, shall be rendered by said supreme court, and sentence, if proper, passed by it. This proceeding shall be in addition to, and cumulative as to any other provisions of the law applicable to the same situation.

Sec. 8223, R. L. 1910.

History. See note to Sec. 8221.

534. Stay bond. The appointment of such receiver may be stayed, or, after appointment and possession taken, the receiver shall be discharged, upon the defendant giving bond in an amount and with sureties to be approved by said court or a justice thereof, conditioned for the payment of all damages and costs which may be assessed against the defendant in said proceeding in favor of the State, or any officer or person.

Sec. 8224, R. L. 1910.

History. L. 1907-8, p. 752. Revision: Originally part of Sec. 8221.

535. Recourse of injured parties. Any person, firm, corporation or association, who shall be injured in his business or property by any other person, firm, corporation or association, by reason of anything forbidden, or declared to be unlawful by this article, may sue therefor in the courts of this State, and shall recover threefold the damages by him sustained, and the cost of suit, and a reasonable attorney's fee, to be fixed by the court.

Sec. 8225, R. L. 1910.

History. L. 1907-8, p. 752.

MONOPOLIES—ANTI-TRUST LAWS

536. Foreign corporations forfeit license by violation. Every foreign corporation, as well as every foreign association exercising any of the powers, franchises or functions of a corporation in this State, violating any of the provisions of this article, is hereby denied the right and prohibited from doing business in this State, and the secretary of state, upon the order of the Corporation Commission, or any competent-court, made after due notice and in due course of law, shall revoke the license of any such corporation or association heretofore authorized to do business in this State.

Sec. 8226, R. L. 1910.

History. L. 1907-8, p. 753.

537. Discrimination unlawful. It shall be unlawful for any person, firm, corporation or association engaged in the production, manufacture, distribution or sale of any commodity of general use, or rendering any service to the public, to discriminate between different persons, firms, associations or corporations, or different sections, communities or cities of the State by selling such commodity, or rendering such service at a lower rate in one section, community, or city than another, or at the same rate or price at a point away from that of production or manufacture as at the place of production or manufacture, after making due allowance for the difference, if any, in the grade, quantity or quality, and in the actual cost of transportation from the point of production or manufacture, if the effect or intent thereof is to establish or maintain a virtual monopoly hindering competition, or restriction of trade.

Sec. 8227, R. L. 1910.

History. L. 1907-8, p. 753.

Combination among produce buyers as monopoly. 12 L. R. A. (ns) 150-n.

538. Penalty and recovery. Any person who shall violate any of the provisions of this article, or take part, or aid, or advise in any such violation, or who shall, as officer, manager, director, agent, servant or employee of any firm, corporation or association, knowingly carry out any of the stipulations, purposes, prices, rates, or furnish any information, knowingly, to assist in carrying out such purposes, or in pursuance thereof, in violation of said provisions, shall be punished by a fine of not less than fifty dollars, nor more than ten thousand dollars, and by imprisonment not less than ten days, nor more than ten years, at the discretion of the court; and each day's violation of any of the provisions of this article shall constitute a separate offense. And any sum which might be assessed as a fine by way of punishment for a crime, as herein provided, may be recovered by the State as a penalty in civil action in addition to, or irrespective of, the assessment and assessability of said fine, either before, after, or simultaneously with the pendency of said criminal action.

Sec. 8228, R. L. 1910.

History. L. 1907-8, p. 753. Revision: Minor changes in language.
35 Okla. 713, 130 Pac. 927.

539. Indictment or information shall state what. In any indictment or information for any offense named in this article, it is

MONOPOLIES—ANTI-TRUST LAWS

sufficient to state the purpose or facts of the trust, monopoly or unlawful combination in restraint of trade or commerce, and that the accused is a member of, acted with, or in pursuance of it, or aided or assisted in carrying out its purpose, without giving its name, or description, or stating how, when or where it was created.

Sec. 8229, R. L. 1910.

History. L. 1907-8, p. 754.

540. Witnesses. It shall be the duty of the court before whom any proceeding under this article may be brought, upon the application of the attorney general, to cause to be issued by the clerk of said court subpoenas for such witnesses as may be named in the application, and cause the same to be served by the sheriff of the county where or whither such subpoena is issued; and such witnesses shall be compelled to appear before such court or judge, at the time and place set forth in the subpoena, and shall be compelled to testify as to any knowledge they may have of the violations of any of the provisions of this article; and any witness who fails or refuses to attend and testify shall be punished as for contempt, as provided by law. Any person so subpoenaed and examined, shall not be liable to criminal prosecution for any violation of this article about which he may testify, neither shall the evidence of any such witness be used against him in any criminal proceeding. The evidence of all the witnesses shall, at the option of the attorney general, be taken down and shall be transcribed and placed in the hands of the attorney general, and he shall be authorized to prosecute such violator or violators of this article as the testimony so taken shall disclose. Witnesses subpoenaed as provided in this act (article) shall be compelled to attend from any county in the State.

Sec. 8230, R. L. 1910.

History. L. 1907-8, p. 754.

541. County attorney to prosecute. It shall be the duty of the county attorneys of the several counties of this State, as well as the attorney general of the State, to prosecute all actions to enforce the criminal provisions of this article.

Sec. 8231, R. L. 1910.

History. L. 1907-8, p. 754.

542. Combinations in restraint of trade unlawful. It shall be unlawful for any person, partnership, firm, association, corporation or joint stock company, or agent thereof, to issue, or to own, trust certificates, or for any person, firm, partnership, association, joint stock company or corporation, agent, officer, employee, or the director or stockholders of any corporation, association, or joint stock company, to enter into any combination, contract or agreement with any person, corporation or association, firm or partnership, or with any stockholder, director or officer, agent or employee of the same, the purpose or effect of which combination, contract or agreement shall be to place the management or control of such combination or combinations, or the conduct or operation of the same, or the output or manufactured product thereof, or the marketing of

MONOPOLIES—ANTI-TRUST LAWS

the same, in the hands of any trust or trustees, holding corporation or association, firm or committee, with the intent or effect to limit or fix the price, or lessen the production or sale of any product or article of commerce, or the use or consumption of the same, or to prevent, restrict, limit or diminish the manufacture or output of any such article of commerce, use or consumption; and every person, firm, partnership, association, joint stock company or corporation, or any agent, employee, officer or director of the same, that shall enter into any such combination, contract, management or agreement for the purpose aforesaid, shall be deemed and adjudged guilty of conspiracy in restraint of trade, and punished as provided for in Section 8228, in so far as applicable: Provided, that this section shall not be construed to extend beyond the scope and meaning of the first section of this article.

Sec. 8232, R. L. 1910.

History. L. 1907-8, p. 755. Revision: Minor changes in language; alternative plurals eliminated as useless.

Power of state to make invalid a provision in a sale of goods for resale, forbidding the purchaser to handle goods of other dealers. 11 L. R. A. (ns) 968-n.

Validity of contract provision seeking to control price at which an article shall be resold. 27 L. R. A. (ns) 395-n.

Rights of manufacture, not protected by patent or copyright, with respect to interference by third parties with selling system by which he seeks to control retail price. 12 L. R. A. (ns) 135-n.

Legality, under modern anti-trust acts, of combinations or agreements which restrict the class of persons to whom commodities shall be sold, or from whom they shall be bought. 5 L. R. A. (ns) 136-n.

Combination to control prices in particular locality. 16 L. R. A. (ns) 223-n.

Contracts in partial restraint of trade as affected by modern anti-trust acts. 9 L. R. A. (ns) 446-n.

Validity of contract giving one an exclusive right to handle goods in a given locality. 9 L. R. A. (ns) 501-n.

543. Penalty for corporation owning stock of competitor.

Every corporation which shall own, hold or control, in any manner whatever, the stock of any competitive corporation or corporations engaged in the same kind of business, in or out of this State, in violation of the Constitution and laws of this State, shall forfeit its charter or license to do business in this State, and shall be subject to a penalty of not less than one thousand dollars, nor more than ten thousand dollars, to be recovered at the suit of the State in any court of competent jurisdiction.

Sec. 8233, R. L. 1910.

History. L. 1907-8, p. 755.

544. State to have lien on property of law-breaking corporation. Whenever any corporation created under the laws of this State, or any foreign corporation authorized to do business in this State, shall violate any law of this State, for the violation of which fines, penalties or forfeitures are provided, all property of such corporation within this State at the time of such violation, or which may hereafter come within this State, shall, by reason of such violation, become liable for such fines or penalties, and for all costs of suit and collection. The State of Oklahoma shall have a lien on all such property from the date that suit shall be instituted by the attorney general in any court of competent jurisdiction within this State for the purpose of forfeiting the charter or canceling the

MONOPOLIES—ANTI-TRUST LAWS

permit of such corporation, or for the recovery of such fines or penalties; the institution of such suit for the recovery of such fines, penalties or forfeitures shall constitute notice of such lien.

Sec. 8234, R. L. 1910.

History. L. 1907-8, p. 755.

545. Public business defined. Whenever any business, by reason of its nature, extent, or the existence of a virtual monopoly therein, is such that the public must use the same, or its services, or the consideration by it given or taken or offered, or the commodities bought or sold therein are offered or taken by purchase or sale in such manner as to make it of public consequence or to affect the community at large as to supply, demand or price or rate thereof, or said business is conducted in violation of the first section of this article, said business is a public business, and subject to be controlled by the State, by the Corporation Commission or by an action in any district court of the State, as to all of its practices, prices, rates and charges. And it is hereby declared to be the duty of any person, firm or corporation engaged in any public business to render its services and offer its commodities, or either, upon reasonable terms without discrimination and adequately to the needs of the public considering the facilities of said business.

Sec. 8235, R. L. 1910.

History. L. 1907-8, p. 756.

35 Okla. 451, 120 Pac. 127; 31 Okla. 505, 122 Pac. 222; Okla. Gin Co. v. State, 158 Pac. 629. 31 Okla. 603, 122 Pac. 163.

As to right of appeal from order of Corporation Commission, made hereunder, see *Harriss-Irby Cotton Co. v. State*, 31 Okla. 603, 122 Pac. 163.

Public service commissions—statutes—jurisdiction of commission. Subjects and titles of acts. Section 13 of an act approved June 10, 1908 (Sess. Laws 1907-8, Ch. 83), vested the Corporation Commission with jurisdiction to prescribe rates and charges under the conditions prescribed by the act, and the same was expressed in its title; the same being referable and cognate thereto. (*Oklahoma Gin Co. v. State*, 158 Pac. 629.)

Constitutional law—distribution of governmental powers—Corporation Commission. The power thus delegated by the legislature to the Corporation Commission is not in conflict with Const. Art. 1 and 1, and delegated pursuant to Const. Arts. 9 and 18. 1d.

Public service commissions—order—validity. In fixing the rates and charges complained of, the sole question before the commission was whether the charge was a reasonable exaction to be paid by the individual dealing with the company, considering the service to be rendered by the company. With the question whether or not the rate when applied to all the gins concerned would yield sufficient revenue to pay the operating expenses and keep all of them running for any length of time the commission had no concern, and hence the effect of an admission by the Corporation Commission, in a proceeding for contempt against one company whose rates and charges had been fixed for violating the order, that such it would not be nil. 1d.

Warehousemen—public service commission—orders—evidence. Evidence examined and HELD, that the prima facie presumption attending the order of the commission, fixing the minimum charge for ginning cotton at C. at 50 cents per pound for lint cotton with maximum charge of \$2.50 a bale, and fixing the charge of bagging and ties at approximately \$1 per bale, has not been overcome. 1d.

546. Proof required. In all prosecutions of proceedings under this article, it shall be sufficient to prove that a trust, monopoly, combination in restraint of trade or commerce existed without the period not barred by the statute of limitations, and was continued in any form into and during any portion of the period not so barred, and that the defendant belonged to it, or acted for or in connection with it, without proving all the members belonging to it, or proving

MONOPOLIES—ANTI-TRUST LAWS

or producing any article or agreement or any written instrument on which it may have been based, or that it was evidenced by any written instrument at all.

Sec. 8236, R. L. 1910.

History. L. 1907-8, p. 756.

547. Previous and continuing violations included. Any violation of this article committed before its passage, and continued in any illegal form after its passage, is within its terms.

Sec. 8237, R. L. 1910.

History. L. 1907-8, Pac. 757.

548. Remedies additional to former remedies. Nothing in this article shall abridge or alter any remedy now existing, either at common law or by statute, but the provisions of this article are in addition to such remedies.

Sec. 8238, R. L. 1910.

History. L. 1907-8, p. 757. Revision: Minor changes in language.
7 Okla. Cr. 50, 122 Pac. 243.

549. No recovery for goods sold in violation hereof. Any person purchasing provisions, feed, material, articles of merchandise, or any commodity from any individual, firm, partnership or corporation, transacting business in violation of the provisions of this article, shall not be liable for the price or payment of any such article or commodity, and may plead this article as a defense in any suit for price or payment. In any civil action brought under the provisions of this section, the court before whom such suit shall be pending may compel the plaintiff to testify; but if the plaintiff be a corporation, then the court may compel any officer, agent, or employee of such corporation to attend, appear, and testify, or compel the production of any contract, or papers in evidence in such civil action: Provided, that the evidence so obtained shall not be used in any criminal prosecution against the person so testifying except in a criminal prosecution for perjury committed in giving such testimony.

Sec. 8239, R. L. 1910.

History. S. 1890, Sec. 6621. Revision: Minor changes in language.

Applied. Wagner v. Minnie Harvester Co., 25 Okla. 558, 106 Pac. 969.

550. Purchaser may recover damages. Any person who shall have purchased from any individual, firm, partnership or corporation, doing business in violation of the provisions of this article, any provisions, feed, fuel, lumber or other building material, articles of merchandise, or other commodity and paid for the same, may, maintain a civil action to recover the full amount of damages sustained in consequence of any such violation together with a reasonable attorney's fee, to be fixed by the court, which attorney's fee shall be taxed and collected as part of the costs in such case. In any civil action brought under the provisions of this section, the court before whom such suit is pending may compel the defendant to testify, but if the defendant be a corporation, then the court may compel any officer, agent or employee of such corporation to attend, appear and testify or compel the production of any contract or

MONOPOLIES—ANTI-TRUST LAWS

papers as evidence in such civil action: Provided, that the evidence so obtained shall not be used in any criminal action against the person so testifying except in a criminal prosecution for perjury committed in giving such testimony.

Sec. 8240, R. L. 1910.

History. S. 1890, Sec. 6622.

551. County attorneys to prosecute—reward. It shall be the duty of the county attorneys, in their respective counties, to enforce the foregoing provisions of this article.

Sec. 8241, R. L. 1910.

History. S. 1890, Sec. 6623. Revision: Provision for fee to the county attorney of one-fifth of the fine recovered eliminated as obsolete, in view of provisions for county attorney's salary and other compensation in the 1910 fee-bill (see Sec. 1557).

35 Okla. 713, 130 Pac. 927.

552. "Unfair discrimination" — definition. Any person, firm or corporation, foreign or domestic, doing business in the State of Oklahoma, and engaged in the production, manufacture or distribution of any commodity in general, that intentionally, for the purpose of destroying the competition of any regular, established dealer in such commodity, or to prevent the competition of any person who, in good faith, intends and attempts to become such dealer, shall discriminate between different sections, communities or cities of this State by selling such commodity at a lower rate in one section, community or city, or any portion thereof, than such person, firm or corporation, foreign or domestic, charges for such commodity in another section, community or city, or that shall discriminate between different sections, communities or cities of this State by selling such commodity at a lower rate in one section, community or city, or any portion thereof, than such person, firm or corporation, foreign or domestic, charges for such commodity in another section, community or city after equalizing the distance from the point of production, manufacture or distribution and freight rates therefrom, shall be deemed guilty of unfair discrimination, which is hereby declared to be a misdemeanor.

Sec. 1, Ch. 111, S. L. 1913.

553. Investigations — actions — revocation of charters and permits. If complaint shall be made to the attorney general that any corporation is guilty of unfair discrimination, as defined by this act, he shall investigate such complaint and for that purpose he may subpoena witnesses, administer oaths, take testimony, and require the production of books or other documents, and if in his opinion sufficient grounds exist therefor, he may administer oaths, take testimony, and require the production of books or other documents, and if in his opinion sufficient grounds exist therefor, he may prosecute an action in the name of the State in the proper court to annul the charter or revoke the permit of such corporation, as the case may be, and to permanently enjoin such corporation from doing business in this State, and if in such action the court shall find that such corporation is guilty of unfair discrimination, as defined by

MONOPOLIES—ANTI-TRUST LAWS

this act, such court shall annul the charter or revoke the permit of such corporation, and may permanently enjoin it from transacting business in this State.

Sec. 2, Ch. 114, S. L. 1913.

554. Violations of act—punishment. Any person, or the managing agent or agents of any firm or corporation violating the provisions of section one (1) of this act shall upon conviction thereof, be fined not less than one hundred (\$100.00) dollars, nor more than five hundred (\$500.00) dollars for each offense.

Sec. 3, Ch. 114, S. L. 1913.

555. "Combination" of corporations — definition. Where two or more corporations engaged in the same lines of business shall have or may hereafter become associated together by the owning, holding or controlling of certificates of stock, or other interest, in more than one of such corporations by one of such corporations, or any stockholder thereof, the same shall be deemed, and is hereby declared to be, a "combination," and all corporations so linked together, and all auxiliary corporations and business plants owned or controlled by them, or either of them, directly or indirectly, are declared to be members of such combination.

Sec. 4, Ch. 114, S. L. 1913.

556. "Unfair competition"—definition—exceptions. Raising or lowering by such combination, or any member thereof, in the immediate territory of a financially weaker competitor, the price of a commodity handled by such competitor or lowering the price charged for services rendered the public by such competitor, while at the same time the same combination, or some member thereof, is engaged in buying or selling a like commodity for a different and more advantageous price, or is charging a greater rate for like services rendered the public at another point within the State of Oklahoma, is hereby declared to be unfair and destructive competition and is hereby prohibited; and the doing of any act which, directly or indirectly, brings about a similar effect on such weaker competitor shall be a violation of this act: Provided, a proper allowance shall be made for grade or quality of product and freight rate; Provided nothing herein contained shall prevent such combination, or any member thereof, from meeting any price, made by any one not connected in any way with, or influenced by, any member thereof, at any point within this State without being required to make such price generally, so long as such outside party maintains such price in good faith, but no longer, if such point be within the immediate territory of a financially weaker competitor.

Sec. 5, Ch. 114, S. L. 1913.

See 42, L. R. A. (ns) 804, 821.

557. Damages to weaker competitor — liability of "combination". Every such weaker competitor injured by reason of any of the acts herein prohibited in the foregoing section may recover, as damages, of the offending combination, or any of the offending members thereof, three times the amount of actual damages sus-

OIL AND GAS

tained thereby, together with a reasonable attorney fee for collecting such damages. Lost profits may be recovered as damages, and lost profits may be ascertained by taking the difference in the price paid or received for a commodity or for services rendered the public in the territory of such weaker competitor and the price paid or received for a like commodity or like services rendered at any other point within this State by such combination, or any member thereof. Grade or quality of product and freight rate to be considered as in previous section. Suit for such damages and attorney fees may be brought in any court of competent jurisdiction in the county wherein such damage may be sustained.

Sec. 6, Ch. 114, S. L. 1913.

558. Act cumulative to other legal remedies. Nothing in this act shall be construed as repealing any other act, or part of an act, but the remedies herein provided shall be cumulative to all other remedies provided by law.

Sec. 7, Ch. 114, S. L. 1913.

CHAPTER IX.

Oil and Gas.

- | | | |
|---------|-------|---|
| Article | I. | Jurisdiction conferred on Corporation Commission—Oil and Gas Department. |
| Article | II. | Oil—Oil Pipe Lines. |
| Article | III. | Oil Conservation Law — Regulation of Production, Crude Oil. |
| Article | IV. | Natural Gas—Gas Pipe Lines. |
| Article | V. | Natural Gas—Regulation of Production and Transportation—Conservation. |
| Article | VI. | Laws Relating to the Inspection of Gasoline and Other Petroleum Products. |
| Article | VIa. | Requiring Gasoline to Be Kept in Red Tanks. |
| Article | VII. | Oil and Gas Gross Production Tax Law. |
| Article | VIII. | Miscellaneous, Leasing State Lands, etc. |

ARTICLE I.

JURISDICTION CONFERRED ON CORPORATION COMMISSION—OIL AND GAS DEPARTMENT.

Sec.

559 Oil and gas department authorized, chief conservation agent.

560 Authority and duties conferred exclusively upon Corporation Commission.

561 Repealing clause.

559. Oil and gas department authorized—chief conservation agent. The Corporation Commission is hereby empowered and authorized to create and establish an oil and gas department under the jurisdiction and supervision of the Corporation Commission, and is hereby authorized to appoint with the approval and consent of the

OIL PIPE LINES

governor, a chief oil and gas conservation agent who shall have charge of the oil and gas department herein authorized.

Sec. 1, Ch. 207, S. L. 1917.

560. Authority and duties conferred exclusively upon Corporation Commission. All authority and duties now conferred upon the Corporation Commission or other departments of the State government in reference to the conservation of oil and gas and the drilling and operating oil and gas wells, and the construction and regulation of oil and gas pipe lines, are hereby conferred exclusively upon the Corporation Commission.

Sec. 2, Ch. 207, S. L. 1917.

561. Repealing clause. All acts and parts of acts in conflict herewith are hereby repealed.

Sec. 6, Ch. 207, S. L. 1917.

Above Secs. (Ch. 207 S. L. 1817) Construed: State ex Rel. Breene v. Howard, No. 9114, decided by Supreme Court of Oklahoma, Feb. 12, 1918.

ARTICLE II.

OIL—OIL PIPE LINES.

Sec.

- 562. Oil pipe lines to be controlled and regulated by the Corporation Commission—to receive and transport each other's tonnage, oils, etc.
- 563. Oil companies must comply with this article—penalty.
- 564. Right of way.
- 565. Foreign corporations.
- 566. Common purchasers of oil—required to purchase.
- 567. Same—exemptions.
- 568. Oil carriers are common carriers—discrimination prohibited.
- 569. Oil carriers not to be interested in producing.
- 570. Acceptance of laws and plats to be filed.
- 571. Domestic pipe line companies have right of way.
- 572. Who may have right of eminent domain.
- 573. Commission may extend time.
- 574. Penalty for violations.
- 575. Suspension of penalty, when.
- 576. Certified transcripts shall be evidence.

562. Oil pipe lines to be controlled and regulated by the Corporation Commission—to receive and transport each others tonnage, oils, etc. All oil pipe companies shall be subject to the reasonable control and regulation of the Corporation Commission, and shall receive and transport each others tonnage or oils, or commodities, under such rules and regulations as shall be prescribed by law, or such commission.

Sec. 4 (220), Art. 9, Const.

Oil Pipe Lines Common Carriers U. S. v. Ohio Oil Co., 234 U. S. 548, 58 L. Ed. 1459.

563. Oil companies must comply with this article—penalty. Every corporation, joint stock company, partnership or other person, exercising or claiming the right to carry or transport crude oil or petroleum, or any of the products thereof, by or through pipe lines, for hire, or otherwise, or exercising or claiming the right to engage in the business of producing crude oil or petroleum, or of refining it, or manufacturing any of the products thereof, or of storing crude oil or petroleum produced by it, or any other person, or engaging in the business of buying, selling or dealing in crude oil or petroleum, within the limits of this State, shall not have or possess the right to conduct or engage in said business or operation, in whole or in part, as above described, or have or possess the right

OIL AND GAS

to locate, maintain or operate the necessary pipe lines, fixtures and equipment thereunto belonging, or used in connection therewith, concerning the said business of carrying or transporting crude oil or petroleum as aforesaid, on, over, along, across, through, in or under any present or future highway, or part thereof, within this State, or have or possess the right of eminent domain or any other rights concerning said business or operations, in whole or in part, except as authorized by and subject to the provisions of this article, and except such rights as may already exist which are valid, vested, and incapable of revocation by any law of this State or of the United States. The word "petroleum" as used herein means all crude oil and its manufactured products, not including natural gas.

L. 1909, p. 425. Sec. 4304, R. L. 1910.

564. Right of way. For the purpose of acquiring necessary right of way, every such person is hereby granted the right of condemnation by eminent domain, and the use of the highways in this State, for the purpose of transporting petroleum by pipe lines, and the location, laying, construction, maintaining and operation thereof.

L. 1909, p. 426. Sec. 4305, R. L. 1910.

565. Foreign corporations. Corporations of other states or territories or of the United States, otherwise admissible to do business in this State, may get the benefit of this article upon compliance with the laws and Constitution of this State, including the provisions of section 31, of article 9, of the Constitution, but until such compliance they shall have no right in, on or under the highways.

L. 1909, p. 426. Sec. 4306, R. L. 1910.

566. Common purchasers of oil — required to purchase. Every corporation, joint stock company, partnership or other person claiming or exercising the right to carry or transport crude oil or petroleum or exercising the right to carry or transport crude oil or petroleum or any of the products thereof, by pipe line for hire or otherwise, within the limits of this State, as allowed by, and upon compliance with the requirements of this article, as owner, lessee, licensee, or by virtue of any other right or claim, which is engaged in the business of purchasing crude oil or petroleum therein, shall be deemed a common purchaser thereof, and shall purchase all of the petroleum in the vicinity of, or which may reasonably be reached by its pipe lines, or gathering branches, without discrimination in favor of one producer or one person as against another, and shall fully perform all the duties of a common purchaser; but if it shall be unable to perform the same, or shall be legally excusable from purchasing and transporting all of the petroleum produced, then it shall purchase and transport petroleum from each person and producer ratably, in proportion to the average daily production; and such common purchasers are hereby expressly prohibited from discriminating in price or amount for like grades of oil, or facilities between producers or persons; and in the event such purchaser is likewise a producer, it is hereby prohibited from discriminating

OIL PIPE LINES

in favor of its own production, or storage, or production or storage in which it may be interested, directly or indirectly, in whole or in part, and its own production and storage shall be treated as that of any other person or producer.

L. 1909, p. 426. Sec. 4307, R. L. 1910.

567. Same — exceptions. All persons, firms, associations, and corporations are exempt from the provisions of this article where the nature and extent of their business are such that the public needs no use in the same and the conduct of the same is not a matter of public consequence; and for this purpose the district courts of the State and the Corporation Commission are vested with jurisdiction to determine such exemptions in any action or proceeding properly before them, as provided in this article.

L. 1909, p. 427. Sec. 4308 R. L. 1910.

568. Oil carriers are common carriers—discrimination prohibited. Every corporation, joint stock company, partnership or person engaged in the business of carrying or transporting crude oil or petroleum or any of the products thereof for hire or otherwise, by pipe line, within this State, and by virtue of and in conformity to any valid law incapable of revocation by any laws of this State or of the United States, or by virtue of and in conformity to the provisions of this article, shall be deemed a common carrier thereof as at common law; and no such common carrier shall allow or be guilty of any unjust or unlawful discrimination, directly or indirectly, in favor of the carriage, transportation, storage or delivery of any crude, stock or storage oil, or any product thereof, in its possession or control, or in which it may be interested, directly or indirectly.

L. 1909, p. 427. Sec. 4309, R. L. 1910.

As to interstate commerce, see *U. S. v. Ohio Oil Co.*, 234 U. S. 548, 58 L. Ed. 1459.

569. Oil carriers not to be interested in producing. It shall be unlawful for any corporation, joint stock company, partnership or person engaged in the business of carrying or transporting crude oil or petroleum, or any of the products thereof, for hire or otherwise, within the limits of the article, and not becoming a common purchaser as defined by, and accepting the provisions of this article, to own or operate, directly or indirectly, any oil well, oil leases or oil holdings or interests in this State, and each of said corporations, joint stock companies, partnerships or persons shall divest themselves of all legal or equitable ownership, interest or control, directly, or indirectly, in oil wells, oil leases or oil holdings or interests in this State.

L. 1909, p. 427. Sec. 4310, R. L. 1910.

570. Acceptance of laws and plats to be filed. Before any corporation, joint stock company, partnership or person shall have, possess, enjoy or exercise the right of eminent domain, right of way, right to locate, maintain or operate pipe lines, fixtures or equipment thereunto belonging, or used in connection therewith, as authorized

OIL AND GAS

by the provisions of this article, or shall have, possess, enjoy, or exercise any right (the word "right" in this connection being used in its most comprehensive legal sense) conferred by this article, every such corporation, joint stock company, partnership or other person shall file in the office of the corporation commission a proper and explicit authorized acceptance of the provisions of this article and the Constitution of this State, and, in cases of pipe lines, a plat showing in detail the points within this State between which, and the route along which, the trunk lines are proposed to be constructed, the intended size and capacity thereof, and the location and capacity of all pumping stations, gate valves, check valves and connection and appliances of all kinds used, or to be used, on said trunk lines; and upon demand of the Corporation Commission, the proper parties, as required by said commission, shall promptly file a plat showing in detail all the lines owned and operated by them respectively with full and explicit information as to their capacity, size, and location, and the capacity of their pumping stations, gate valves, check valves and connections, of all kinds, required or used in the operation thereof.

L. 1909, p. 428. Sec. 4311, R. L. 1910.

571. Domestic pipe line companies have right of way. Every domestic pipe line company in this State is hereby given authority to build, construct, lay and maintain oil pipe lines over, under, across, or through all highways, bridges, streets or alleys in this State, or any public place therein, under the supervision of the inspector of oil and gas wells and pipe lines as to where and how in said highways, bridges, streets, alleys and public places said pipe lines shall be laid, and subject to the control of the local municipalities, as to how the business of distribution in that municipality shall be conducted, and subject to responsibility as provided by law for any negligent injury thereby caused.

L. 1909, p. 429. Sec. 4312, R. L. 1910.

572. Who may have right of eminent domain. All persons, natural or artificial, except foreign corporations, shall have the right of eminent domain, and any right or privilege hereby conferred, when necessary to make effective the purposes of this article and the rights thereby conferred. Foreign corporations organized under the laws of any other state, or the United States, and doing or proposing to do business in this State, and which shall have become a body corporate pursuant to or in accordance with the laws of this State, and which, as hereby provided, shall have registered its acceptance of the terms hereof, shall receive all the benefits provided by this article.

L. 1909, p. 429. Sec. 4313, R. L. 1910.

573. Commission may extend time. Upon a sworn statement of the necessities which would justify a judicial continuance, the Corporation Commission is authorized to extend the time for the filing of the said plats, not, however, to exceed sixty days.

L. 1909, p. 429. Sec. 4314, R. L. 1910.

OIL CONSERVATION LAW

574. Penalty for violations. Any person, co-partnership or corporation, its agent or employee, violating any of the provisions of this article, or any order of the competent courts of this State, or the Corporation Commission, pursuant to the jurisdiction conferred by this article, shall, upon conviction thereof, be fined a sum of not less than one thousand dollars, nor more than five thousand dollars, or imprisonment for not less than six months, nor more than one year, or by both such fine and imprisonment for each and every violation of this article; but in case the monthly runs or takings or transportation of oil shall average so as to be without discrimination, as herein provided, the transactions of any particular day, week or portion of a month shall be disregarded; and the competent court of the county in which the omission or commission which is a violation of this article has occurred shall have jurisdiction of an action under the penal code for the punishment thereof; and said penalties shall not be exclusive of civil liability.

L. 1909, p. 429. Sec. 4315, R. L. 1910.

575. Suspension of penalty, when. Whenever the operation of a valid order of a competent court or the Corporation Commission is duly suspended, according to law, the punitive provisions of this article shall likewise be suspended in their operation as to the transactions adjudicated in said court; and further, any court having jurisdiction of an action brought by the State to punish for a violation under the terms of this article, shall not impose a punishment therefore greater than five hundred dollars against any person or corporation, if it finds from the evidence that the violation was made solely with the object of testing according to law the validity of any of the provisions of this article, or of the order of any competent court or of the Corporation Commission, in any proceeding to carry out the provisions hereof.

L. 1909 p. 430. Sec. 4316, R. L. 1910.

576. Certified transcript shall be evidence: A properly certified transcript of the report of any such corporation, association or person shall, as against the maker thereof, be prima facie evidence of the truth of any matter therein contained.

L. 1909, p. 430. Sec. 4317, R. L. 1910.

ARTICLE III.

OIL CONSERVATION LAW—REGULATION OF PRODUCTION—CRUDE OIL.

- 577. Waste prohibited.
- 578. Production and sale regulated—Corporation Commission.
- 579. Waste defined—protection.
- 580. Production regulated—discrimination of purchaser prohibited.
- 581. Wells gauged.
- 582. Enforcement of act—hearings before Corporation Commission.
- 583. Appeals to supreme court—effect on orders.
- 584. Penalty for violation.
- 585. State may secure receiver—extent and manner.
- 586. Validity of relative sections of act.

577. Waste prohibited. The production of crude oil or petroleum in the State of Oklahoma, in such manner and under such conditions as to constitute waste, is hereby prohibited.

Sec. 1, Ch. 25, S. L. 1915.

OIL AND GAS

On power of the state to prevent waste, prescribe equitable taking of oil and gas, etc., see the following cases: *Ohio Oil Co. v. Indiana*, 177 U. S. 190, 202; *Lindsley v. Natural Carbonic Gas Co.*, 220 F. S. 61; *White v. Farmers High Line Canal & Reservoir Co.*, 31 L. R. A. 829; *Hathorn v. Natural Carbonic Gas Co.*, 23 L. R. A. (ns) 436; *Notes* 48 L. R. A. (ns) 170; *West v. Kansas Natural Gas Co.*, 221 U. S. 229, 55 L. Ed. 716, and other authorities cited in commissioner's orders 920 and 937; eighth and ninth Annual Report p. 252 and p. 287.

578. Production and sale regulated—Corporation Commission. The taking of crude oil or petroleum from any oil-bearing sand or sands in the State of Oklahoma at a time when there is not a market demand therefor at the well at a price equivalent to the actual value of such crude oil or petroleum is hereby prohibited, and the actual value of such crude oil or petroleum at any time shall be the average value as near as may be ascertained in the United States at retail of the by-products of such crude oil or petroleum when refined less the cost and a reasonable profit in the business of transporting, refining and marketing the same, and the Corporation Commission of this State is hereby vested with the authority and power to investigate and determine from time to time the actual value of such crude oil or petroleum by the standard herein provided, and when so determined said commission shall promulgate its findings by its orders duly made and recorded, and publish the same in some newspaper of general circulation in the State.

Sec. 2, Ch. 25, S. L. 1915.

579. Waste defined—protection. The term "waste" as used herein, in addition to its ordinary meaning, shall include economic waste, underground waste, surface waste, and waste incident to the production of crude oil or petroleum in excess of transportation or marketing facilities or reasonable market demands. The Corporation Commission shall have authority to make rules and regulations for the prevention of such wastes, and for the protection of all fresh water strata, and oil and gas bearing strata, encountered in any well drilled for oil.

Sec. 3, Ch. 25, S. L. 1915.

580. Production regulated—discrimination of purchaser prohibited. Whenever the full production from any common source of supply of crude oil or petroleum in this State can only be obtained under conditions constituting waste as herein defined then any person firm or corporation having the right to drill into and produce oil from any such common source of supply, may take therefrom only such proportion of all crude oil and petroleum that may be produced therefrom, without waste, as the production of the well or wells of any such person, firm or corporation, bears to the total production of such common source of supply. The Corporation Commission is authorized to so regulate the taking of crude oil or petroleum from any or all such common sources of supply, within the State of Oklahoma, as to prevent the inequitable or unfair taking, from a common source of supply, of such crude oil or petroleum, by any person, firm, or corporation, and to prevent unreasonable discrimination in favor of any one such common source of supply as against another.

Sec. 4, Ch. 25, S. L. 1915.

OIL CONSERVATION LAW

581. Wells gauged. For the purpose of determining such production, a gauge of each well shall be taken under rules and regulations to be prescribed by the Corporation Commission, and said commission is authorized and directed to make and promulgate by proper order, such other rules and regulations, and to employ or appoint such agents with the consent of the governor, as may be necessary to enforce this act.

Sec. 5, Ch. 25, S. L. 1915.

582. Enforcement of act—hearing before Corporation Commission. Any person, firm, or corporation, or the attorney general on behalf of the State, may institute proceedings before the Corporation Commission, or apply for a hearing before said commission, upon any question relating to the enforcement of this act, and jurisdiction is hereby conferred upon said commission to hear and determine the same. Said commission shall set a time and place, when and where such hearing shall be had and give reasonable notice thereof to all persons or classes interested therein by publication in some newspaper or newspapers having general circulation in the State and in addition thereto, shall cause reasonable notice in writing to be served personally on any person, firm or corporation complained against. In the exercise and enforcement of such jurisdiction, said commission is authorized to determine any question or fact, arising hereunder, and to summon witnesses, make ancillary orders, and use mesne and final process, including inspection and punishment as for contempt, analogous to proceedings under its control over public service corporations, as now provided by law.

Sec. 6, Ch. 25, S. L. 1915.

583. Appeals to supreme court—effect on orders. Appellate jurisdiction is hereby conferred upon the supreme court in this State to review the action of said commission in making any order or orders, under this act. Such appeal may be taken by any person, firm or corporation, shown by the record to be interested therein, in the same manner and time as appeals are allowed by law from other orders of the Corporation Commission. Said orders so appealed from shall not be superseded by the mere fact of such appeal being taken, but shall be and remain in full force and effect until legally suspended or set aside by the supreme court.

Sec. 7, Ch. 25, S. L. 1915.

584. Penalty for violation. In addition to any penalty that may be imposed by the Corporation Commission for contempt, any person, firm, or corporation, or any officer, agent or employee thereof, directly or indirectly violating the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof, in a court of competent jurisdiction, shall be punished by a fine in any sum not to exceed five thousand dollars (\$5,000), or by imprisonment in the county jail not to exceed thirty (30) days, or by both fine and imprisonment.

Sec. 8, Ch. 25, S. L. 1915.

OIL AND GAS

585. State may secure receiver—extent and manner. In addition to any penalty imposed under the preceding section any person, firm or corporation, violating the provisions of this act, shall be subject to have his or its producing property placed in the hands of a receiver by a court of competent jurisdiction, at the suit of the State through the attorney general, or any county attorney, but such receivership shall only extend to the operating of producing wells and the marketing of the production thereof, under the provisions of this act.

Sec. 9, Ch. 25, S. L. 1915.

586. Validity of relative sections of act. The invalidity of any section, subdivision, clause or sentence of this act shall not in any manner affect the validity of the remaining portion thereof.

Sec. 10, Ch. 25, S. L. 1915.

Conservation of Oil—Healdton Field.

The Commission in Cause No. 2287 issued Order No. 920 as follows:

In order to prevent waste and to regulate the taking of oil from the common source of supply, and to prevent the inequitable and unfair taking of oil from the common source of supply in the Healdton field, the following rules and regulations are hereby made and established:

(1) The practice, plan or device of placing or holding crude oil in earthen reservoirs (sometimes called pond storage) heretofore in use in the Healdton field is hereby discontinued and prohibited.

(2) The use of wooden or steel storage is permitted under the limitations, restrictions and qualifications hereinafter found.

(3) No operator (person, firm or corporation, having the right to drill into and produce oil from the common source of supply) shall take from the potential production of the Healdton field more than his fair and equitable proportion thereof, and in order that the potential production of said field may be determined for the purpose of establishing a basis for the fair and equitable taking of oil from the common source, it is ordered that A. L. Walker, heretofore appointed as agent of the commission, or his successor in office, make a gauge of each oil well in said field and as its rules and regulations for the taking or making such a gauge, the commission authorizes its agents to use and uniformly apply the method and plan now recognized and in common use.

(4) That upon ascertaining the potential production of the field the agent of the commission shall thereupon ascertain the transportation or market facilities and ascertain the amount of oil necessary to meet the daily market demands.

(5) That the daily actual production of the oil field shall be restricted and confined to such a quantity as is necessary to supply the probable daily market demand with the exception hereinafter provided; that is to say, the raising of the oil from the sand or the production from the common source of supply shall be done by the operators in said field only to the extent of the amount necessary to meet the ascertained daily market demands and under the conditions set forth in the rules and regulations of the commission.

(6) The capacity or potential production of each well in said field shall be ascertained in the manner and by the means above outlined and thereupon the owner in the operation thereof shall be restricted in raising oil from underground to the surface to the following extent; that is to say, the agent of the commission in said field shall in accordance with these rules ascertain the ratio of the daily market demand to the potential production and then the actual production shall be limited to the market demand, and in supplying the market demand the operators shall be permitted to produce ratably, that is to say, only such a per cent of the possible production of each well as is necessary to make up upon the whole the daily market demand.

(7) In order to guard against unforeseen casualties and contingencies and to be sure that the market may not at any time be deprived of an adequate supply, the use of wooden or steel storage permitted as aforesaid is hereby authorized for the storage of the whole or potential production of any well or number of wells on any one lease or property for a period of ten days, but in raising the oil so produced, it shall be run according to the fair and equitable proportion of the operator according to the plan hereby established, or in other words, if an operator chooses to accumulate his whole possible production for a period of ten days, then upon the sale of the same he shall be wholly prohibited and prohibited from raising any other oil from the sand to the surface and be a due pro rata run upon the pro rata basis.

(8) The commission in avoidance of any controversy pertinent to the legal title of common carrier and common purchaser runs applies the rules and regulations wholly, and therefore both directly and indirectly, to the production of oil and not to the marketing of the same, or rather to the raising of the

GAS PIPE LINES

oil from the sands to the surface, and hereby authorizes its agents in the regulation of fair and equitable production as aforesaid to prohibit the raising of oil from the sands to the surface except such as can be marketed under these rules and regulations.

(9) The storage of oil by any common purchaser or purchasers bought ratably in open market bona fide to be held as stock under the usual custom of the trade for the purpose of refining or for sale of the consumer is not prohibited by the rules hereinbefore prescribed.

(10) These rules shall not be interpreted so as to require the oil to be produced ratably each day, but the amount produced from any one well within a period of thirty days shall not exceed the pro rata permissible daily production.

This order shall be in full force and effect on and after its publication as required by law.

Oklahoma City, June 5, 1915.

For Findings of Fact and Opinion in connection with said Order, see Eighth and Ninth Annual Reports of Corporation Commission, page 252; and for letter of instructions to conservation officer, see same, page 262.

ARTICLE IV.

NATURAL GAS—GAS PIPE LINES.

Sec.

- 587. Gas corporations.
- 588. Foreign pipe lines shall not be licensed.
- 589. Gas from interstate pipe lines—license from Corporation Commission.
- 590. Foreign and domestic corporations to have separate ownership.
- 591. Pipe line companies must comply with this article.
- 592. Right of way must be granted by charter and damages paid.
- 593. Inspection.
- 594. Pressure pumps prohibited.
- 595. Lines over private property.
- 596. Corporations become domestic.
- 597. Information to be furnished commission.
- 598. Domestic pipe line companies may erect pumping stations.
- 599. Domestic pipe line companies may cross highways.

587. Gas corporations. Any firm, co-partnership, association or combination of individuals may become a body corporate under the laws of this State for the purpose of producing, transmitting, or transporting natural gas to points within this State by complying with the general corporation laws of the State of Oklahoma, and with this article

L. 1907-8, p. 586. Sec. 4290, R. L. 1910.

Sec. 4291 R. L. 1910, declared invalid. *West v. Kansas Natural Gas Co.*, 221 U. S. 229; 55 L. Ed. 716.

588. Foreign gas pipe lines shall not be licensed. Foreign corporations formed for the purpose of, or engaged in the business of transporting or transmitting natural gas by means of pipe lines, shall never be licensed or permitted to conduct such business within this State.

L. 1907-8, p. 586. Sec. 4292, R. L. 1910.

589. Gas from interstate pipe lines—license from Corporation Commission. All domestic gas pipe line corporations in this State, which are now, or shall hereafter fully comply with the laws of this State, and all municipal corporations, owning or operating a gas plant, or which may hereafter own or operate a gas plant, may contract with and secure from foreign corporations, operating interstate gas pipe lines, the supply of gas for said domestic gas companies. And said interstate gas pipe line companies or foreign corporations may enter into said contract and deliver said gas, upon obtaining a license from the Corporation Commission, which is hereby authorized to grant a license to do and transact that par-

OIL AND GAS

ticular business of supplying domestic corporations with natural gas, and the taking out of said license and the conduct of said business with domestic pipe line companies, shall not prejudice the said interstate pipe line companies, or foreign corporations in the transaction and conducting of their interstate business: Provided, the Corporation Commission may revoke said license, when, in its discretion, the public interest may be best subserved thereby.

Sec. 1, Ch. 98, S. L. 1913.

590. Foreign and domestic corporations to have separate ownership. No person or corporation, interested or doing business as an interstate gas pipe line company, shall be interested in or own or control any of the stock of a domestic corporation, purchasing gas from an interstate pipe line company.

Sec. 2, Ch. 98, S. L. 1913.

591. Pipe line companies must comply with this article. No association, combination, co-partnership or corporation shall have or exercise the right of eminent domain within this State for the purpose of constructing or maintaining a gas pipe line within this State, or shall be permitted to take private or public property for their use within this State, unless expressly granted such power in accordance with this article.

L. 1907-8, p. 587. Sec. 4293, R. L. 1910.

592. Right of way must be granted by charter and damages paid. The laying, constructing, building and maintaining a gas pipe line for the transportation or transmission of natural gas along, over, under, across or through, the highways, roads, bridges, streets or alleys in this State, or of any county, city, municipal corporation, or any other private or public premises within this State is hereby declared an additional burden upon said highway, bridge, road, street or alley, and any other private or public premises, and may only be done when the right is granted by express charter from the State; and such gas pipe line shall not be constructed, maintained, or operated until all damages to adjacent owners are ascertained and paid as provided by law.

L. 1907-8, p. 587. Sec. 4294, R. L. 1910.

593. Inspection. All pipe lines for the transportation or transmission of natural gas in this state shall be laid under the direction and inspection of proper persons, skilled in such business, to be designated by the chief mine inspector for such duty, and the expenses of such inspection and supervision shall be borne and paid for by the parties laying and constructing such pipe lines for the transportation or transmission of natural gas.

L. 1907-8, p. 587. Sec. 4295, R. L. 1910. Corporation Commission substituted for chief mine inspector, Ch. 207, S. L. 1917.

594. Pressure pumps prohibited. No pipe line for the transportation or transmission of natural gas shall be subjected to a greater pressure than three hundred pounds to the square inch, except for the purpose of testing such lines, and gas pumps shall not be

GAS PIPE LINES

used on any gas pipe line for the transportation or transmission of natural gas or used on or in any gas well within the state.

L. 1907-8, p. 587. Sec. 4296, R. L. 1910.
Secs. 4297 and 4298 R. L. 1910, omitted. *West v. Kansas Natural Gas Co.*,
221 U. S. 229.

595. Lines over private property. No pipe lines for the transportation or transmission of natural gas shall be laid upon private or public property when the purpose of such line is to transport or transmit gas for sale to the public until the same is properly inspected as provided in this article; and before any gas pipe line company shall furnish or sell gas to the public, it shall secure from the inspector a certificate showing that said line is laid and constructed in accordance with this article, and under the inspection of the proper officer; Provided, that nothing in this article shall be construed to prevent persons drilling for oil and gas from laying surface lines to transport or transmit gas to wells which are being drilled within this State; and Provided, further, that factories in this state may transport or transmit gas through pipe lines for their own use for factories located wholly within this state, upon securing the right of way from the state over or along the highways and from property owners to their lands.

L. 1907-8, p. 589. Sec. 4299, R. L. 1910.

596. Corporations become domestic. No person, firm, association or corporation shall ever be permitted to transmit or transport natural gas by pipe lines in this state or in this State construct or operate a pipe line for the transmission of natural gas, except such persons, firms, associations, or corporations be incorporated as in this article provided, except as provided in the preceding section.

L. 1907-8, p. 589. Sec. 4300, R. L. 1910.

597. Information to be furnished commission. Before any gas pipe line corporation shall acquire any right of way, or exercise the right of eminent domain within this State, or construct any pipe lines for the transportation of gas, it shall file in the office of the Corporation Commission a plat showing in detail the points in this State, between which and the route along which its trunk line is proposed to be constructed, the intended size and capacity thereof, and the location and capacity of all pumping stations, gate valves, check valves and connections of all kinds on said trunk lines; and upon the demand of the Corporation Commission it shall file a plat showing in detail all the lines owned or operated by it, with full information as to their capacity and size, location and capacity of its pumping station, gate valves, check valves and connections of all kinds in existence.

L. 1909, p. 435. Sec. 1301, R. L. 1910.
Franchise to an individual, 33 Okla. 473, 126 Pac. 725, Ann. Cases, 1914 B.
487-n.

598. Domestic pipe line companies may erect pumping stations. All domestic gas pipe line corporations in this State are hereby authorized to build and operate, and for that purpose to acquire, whether by purchase or the exercise of eminent domain,

OIL AND GAS

sites for the erection of pumping stations in this State wherever the same may be necessary, due consideration being had for the size, capacity, pressure, facilities and powers of all other gas pipe line corporations and gas consumers and gas producers, in the same gas district which may be affected by the use of said pumps.

L. 1909, p. 435. Sec. 4302, R. L. 1910.

599. Domestic pipe line companies may cross highways.

Every domestic gas pipe line corporation in this State is hereby given authority to build, construct and maintain gas pipe lines, over, under, across or through highways, bridges, streets or alleys in this State, or any public place therein, under the supervision of the inspector of oil and gas as to where and how in said highways, bridges, streets, alleys and public places said pipe lines shall be laid, subject to the control of the local municipalities as to how the business of distribution in that municipality shall be conducted, and subject to responsibility as otherwise provided by law: Provided, however, that whenever any gas pipe line crosses the land or premises of any one outside of a municipality, said corporation shall, upon the request of the owner of said premises, connect said premises with a pipe line and furnish gas to said consumer at the same rate as charged in the nearest city or town.

L. 1909, p. 435. Sec. 4303, R. L. 1910.

Cited, etc., 28 Okla. 563, 115 Pac. 353.

FRANCHISE NOT GRANTED TO INDIVIDUALS.

Municipal corporations—natural gas corporations—grant of franchises. The assignee of the owner of a franchise from a municipality granting to him, his successors or assigns, the right to lay pipes in the streets and supply the inhabitants thereof with gas, brought an action to enjoin H. and his assigns from laying pipes therein for a like purpose, who for answer sought to justify under a like alleged franchise granted by the municipality to them. HELD, that the court did not err in holding said franchise, because granted to an individual, and beyond the power of the city to make, and in restraining as trespasses said acts committed pursuant thereto. (Henry et al. v. Bartlesville Gas & Oil Co., 33 Okla. 173; 126 Pac. 725.)

ARTICLE V.

NATURAL GAS REGULATION OF PRODUCTION AND TRANSPORTATION —CONSERVATION.

599. Franchise and persons subject to the act—invested rights excepted.
600. Pipe line right of way—eminent domain—highways.
601. Pipe line operator—common purchasers—requirements—exemptions.
602. Pipe line operator to be common carriers—obligations—exemptions.
603. Non-compliance with act made unlawful—effect.
604. Prerequisite to carrying gas—records for Corporation Commission.
605. Right of way—highway—eminent domain.
606. Filing record with Corporation Commission—extension of time.
607. Only 25 per cent of capacity of gas wells to be taken.
608. Methods—requirements.
609. Violation of act—punishment.
610. Violation—proceeding—procedure.
611. Evidence—reports of gas companies.
612. Enforcement by Corporation Commission—appeals.
613. Gas to be burned until used.
614. Discharge of waste from gas pipe line unlawful.
615. Discharge of waste from gas pipe line—lawful.
616. Hours—lights—may be used at derricks.
617. Fumes—no during day.
618. Discharge of waste from wells.
619. Abandoned well to be plugged, how.
620. "Plugged well record" kept open to public.

GAS PIPE LINES

- 622. Corporation Commission authorized to publish lists of abandoned oil and gas wells.
- 623. Appropriation for publishing of list of abandoned oil and gas wells.
- 624. Inspectors—appointment—qualifications.
- 625. Inspectors to supervise plugging.
- 626. Operator to furnish inspector record of drilling.
- 627. Firing oil or gas or interfering with appliances unlawful.
- 628. Penalty for violation.
- 629. Ownership defined.
- 630. Rights of owners—restrictions on output.
- 631. Purchasers of output—prices and amount of gas to be taken.
- 632. Taking more than share of gas—damage and penalties.
- 633. Violations of act—punishment.
- 634. Waste prohibited.
- 635. Waste defined.
- 636. Conservation of gas.
- 637. Excess gas supply—apportionment.
- 638. "Common purchaser"—fair treatment.
- 639. Hearings before Corporation Commission—how conducted.
- 640. Appeals to supreme court.
- 641. Power of Corporation Commission—rules and regulations.
- 642. Acceptance by pipe lines.
- 643. Validity of several sections of act independent.
- 644. Penalties for violation.

600. Business and persons subject to the act—vested rights excepted. Every corporation, joint stock company, limited co-partnership or other person, now, or hereafter exercising or claiming the right to carry or transport natural gas by or through pipe line or lines, for hire, compensation or otherwise, or now or hereafter exercising or claiming the right to engage in the business of producing, piping or transporting natural gas, or any other person or persons, now or hereafter engaging in the business of buying, selling or transporting natural gas within the limits of this State, shall not have or possess the right to conduct or engage in said business or operations, in whole or in part, as above described, or have or possess the right to locate, maintain, or operate the necessary pipe lines, fixtures and equipment thereto belonging, or used in connection therewith, concerning the said business of carrying or transporting natural gas as aforesaid, on, over, along, across, through, in or under any present or future highway, or part thereof, within the state, or to have or possess the right of eminent domain, or any other right or rights concerning said business or operation, in whole or in part, except as authorized by and subject to the provisions of this act, except, further, and only such right or rights as may already exist which are valid, vested and incapable of revocation by any law of this State or of the United States.

Sec. 1, Ch. 99 S. L. 1913.
Act construed Oklahoma Natural Gas Co. v. State ex Rel West, 47 Okla. 601, 150 Pac. 475.

601. Pipe line right of way—eminent domain—highways. For the purpose of acquiring necessary right-of-way, every such domain, and in the use of the highways in this State, for the purpose constructing, maintaining and operations thereof.

Sec. 2, Ch. 99, S. L. 1913.

602. Pipe line operators common purchasers—requirements—exemptions. Every corporation, joint stock company, limited co-partnership, partnership or other person, now or hereafter claiming or exercising the right to carry or transport natural gas by pipe line or pipe lines for hire, compensation, or otherwise, within

OIL AND GAS

the limits of this State, is allowed by, and upon compliance with the requirements of this act, as owner, lessee, or licensee, or by virtue of any other right or claim, which is now engaged or hereafter shall engage in the business of purchasing natural gas shall be a common purchaser thereof, and shall purchase all the natural gas in the vicinity of, or which may be reasonably reached by its person is hereby granted the right of condemnation by eminent pipe lines, or gathering branches, without discrimination in favor of one producer or one person as against another, and shall fully perform all the duties of a common purchaser; but if it shall be unable to perform the same, or be legally excused from purchasing and transporting all the natural gas produced or offered, then it shall purchase and transport natural gas from each person or of transporting natural gas by pipe lines, and the location, laying, producer ratably, in proportion to the average production, and such common purchasers are hereby expressly prohibited from discriminating in price or amount for like grades of natural gas or facilities as between producers or persons; and in the event it is likewise a producer, it is hereby prohibited from discrimination in favor of its own production, or production in which it may be interested directly or indirectly in whole or in part, and its own production shall be treated as that of any other person or producer. All persons, firms, associations, and corporations are exempted from the provisions of this act, except the provisions of section (9) nine hereof, where the nature and extent of their business is such that the public needs no use in the same, and the conduct of the same is not a matter of public consequence, and for this purpose the district court of the State and the Corporation Commission are hereby vested with jurisdiction to determine such exemptions in any action or proceeding properly before them, and provided by the laws now in force in this State regulating the purchase and transportation of oil.

Sec. 3, Ch. 99, S. L. 1913.

603. Pipe line operators to be common carriers—obligations—exemptions. Every corporation, joint stock company, limited co-partnership, partnership, or other person, now or hereafter engaged in the business of carrying or transporting natural gas for hire, for compensation or otherwise, by pipe line or pipe lines, within this State, and by virtue of and in conformity to any valid law incapable of revocation by any law of this State or of the United States, or by virtue of and in conformity to the provisions of this act, shall be a common carrier thereof as at common law, and no such common carrier shall allow or be guilty of any unjust or any unlawful discrimination, directly or indirectly in favor of the carriage, transportation or delivery of any natural gas, offered to it, in its possession or control, or in which it may be interested, directly or indirectly. Provided that any municipality now owning or operating a gas pipe line for the purpose of furnishing gas for said municipality and now under contract with any person, firm or corporation to furnish it gas, shall be exempted from

GAS—PRODUCTION AND TRANSPORTATION

the provisions of this section during the life of said contract, or until changed or abrogated by the parties thereto. And, provided further, that any person, firm or corporation owning or operating a gas pipe line within the limits of any incorporated city or town in this state shall be exempted from the provisions of this section only as to its distributing lines located wholly within the corporate limits of said city or town.

Sec. 4, Ch. 99, S. L. 1913.

604. Non-compliance with act made unlawful—effect. It shall be unlawful for any corporation, joint stock company, limited co-partnership, partnership or other person, now or hereafter engaged in the business of carrying or transporting natural gas for hire or compensation or otherwise, within the limits of this act and not becoming a common purchaser as defined by and accepting the provisions of this act, to own or operate, directly or indirectly any gas well or wells, gas leases, or gas holdings or interests in this State, after six months next after the approval of this act, and each and every of said corporations, joint stock company, limited co-partnership, partnership or other persons, shall divest themselves of all legal or equitable ownership, interest or control, directly or indirectly, in gas well or wells, gas leases or gas holdings or interest in this State.

Sec. 5, Ch. 99, S. L. 1913.

605. Prerequisite to carrying gas—records for Corporation Commission. Before any corporation, joint stock company, limited co-partnership, partnership or other persons shall have, possess, enjoy or exercise the right of eminent domain, right-of-way, right to locate, maintain or operate pipe lines, fixtures or equipment thereunto belonging, or used in connection therewith, as authorized by the provisions of this act, or shall have, possess, enjoy or exercise any right (the word "right" in this connection being used in its most comprehensive legal sense) conferred by this act, every such corporation, joint stock company, limited co-partnership, partnership or other person, shall file in the office of said Corporation Commissioner proper and explicit authorized acceptance of the provisions of this act and the Constitution of this State, in cases of pipe lines a plat showing in detail the points within this State between which, and the route along which the trunk lines are proposed to be constructed, the intended size and capacity thereof, and the location and capacity of all pumping stations, gate valves, check valves and connections and appliances of all kinds used, or to be used, on said trunk or lines; and upon demand of the Corporation Commission the proper party or parties, as required by said commission, shall properly file a plat showing in detail all the lines owned and operated by them respectively, with full and explicit information as to their capacity, size and location, and the capacity of their pumping stations, gate valves, check valves and connections of all kinds, respectively, required or used in the operation thereof.

Sec. 6, Ch. 99, S. L. 1913.

Mandamus will not lie to compel acceptance of provisions of this act. Oklahoma Natural G. Co., v. State ex Rel West, 47 Okla. 601, 150 Pac. 475.

OIL AND GAS

606. Right of way—Highways—eminent Domain. Every domestic pipe line company in this State is hereby given authority to build, construct, lay and maintain gas pipe lines, over, under, across, or through all highways, bridges, streets or alleys in this State or any public place under the supervision of the Corporation Commission as to where and how in said highways, bridges, streets, alleys and public places said pipe lines shall be laid. Provided, the right to lay gas pipe lines in cities shall be acquired as now provided by law, and subject to the responsibility as otherwise provided by law for any negligent injury thereby caused. All persons natural or artificial, except foreign corporations, shall have the right of eminent domain, and any right or privilege hereby conferred, when necessary to make effective the purpose of this act and the rights thereby conferred. Foreign corporations organized under the laws of any other State or Territory, or the United States, and doing or proposing to do business in this State, and which shall have become a body corporate pursuant to or in accordance with the laws of this State, and which, as hereby provided, shall have registered its acceptance of the terms hereof, shall receive all the benefits by this act provided.

Sec. 7, Ch. 99, S. L. 1913.

607. Filing records with Corporation Commission—extension of time. Upon a sworn statement of the necessities which would justify a judicial continuance, the Corporation Commission is authorized to extend the time for filing of the said plats, not, however, to exceed sixty (60) days.

Sec. 8, Ch. 99, S. L. 1913.

608. Only 25 per cent. of capacity of gas wells to be taken. Every corporation, joint stock company, limited co-partnership, partnership or other person, now or hereafter claiming or exercising the right to produce natural gas, or to carry or to transport natural gas through pipe line or pipe lines, for hire, compensation, or otherwise, within the limits of this State, is allowed by, and upon compliance with the requirements of this act, as owner, lessee, licensee, or by virtue of any other right or claim, is hereby prohibited from taking more than twenty-five (25) per cent. of the daily natural flow of any gas well or wells unless for good cause shown, under the exigencies of the particular case the Corporation Commission shall establish a different per centum under the prescribed rules and regulations therefor.

Sec. 9, Ch. 99, S. L. 1913.

609. Meters—requirements. No corporation, joint stock company, limited co-partnership, partnership or person doing business under the provisions of this act shall purchase, collect, transport, convey or sell any gas from any wells in this State, except such gas as is run through properly constructed meters, the daily readings of which shall be carefully and accurately taken every twenty-four hours (24) and of which a true and correct report under oath shall be made every month and which report of all such busi-

GAS—PRODUCTION AND TRANSPORTATION

ness transacted during the next preceding month shall be filed not later than the fifteenth (15) day of each and every month with the Corporation Commission and which report shall at times be open to the inspection of the public. Such report shall be based upon such daily meter readings; shall show the amount of gas run or purchased from each tract of lands; lease or leasehold estate, the names of the seller or sellers of such gas and of the purchaser or purchasers thereof; and any person or persons making or directing, counseling, advising, aiding or abetting in the making or filing of any false report in the premises shall be deemed guilty of perjury, and on conviction thereof be punished as provided by law; and to the end that such meters shall be properly constructed, maintained, repaired and operated, their installation, use and operation shall at all times be subject to such rules and regulations as the Corporation Commission may prescribe.

Sec. 10, Ch. 99, S. L. 1913.

610. Violation of act—punishment. Any person, co-partnership, or corporation, its agent or employee, violating any of the provisions of this act, or any order of a court of competent jurisdiction of this state, or the Corporation Commission, pursuant to the jurisdiction conferred by this act, shall, upon conviction thereof, be fined a sum of not less than one thousand (\$1,000) dollars nor more than five thousand (\$5,000) dollars, imprisonment not less than six months, nor more than one year, or by both such fine and imprisonment for each and every violation of this act; but in case the monthly runs or takings or transportation of gas shall average so as to be without discrimination, as herein provided, a transaction or transactions of any particular day or week or portion of a month shall be disregarded; and the court of competent jurisdiction of the county in which the omission or commission, which is in violation of this act, has occurred, shall have jurisdiction of an action under the Penal Code for the punishment thereof; and that said penalties shall not be exclusive of civil liability.

Sec. 11, Ch. 99, S. L. 1913.

611. Violations—receivership—procedure. The Corporation Commission shall, upon being reasonably satisfied that any corporation has violated the provisions of this act, recommend to the attorney general that a receiver be appointed for such corporation. Upon receipt of the recommendation by the attorney general, he shall within ten days file a petition on behalf of the State in any court of competent jurisdiction, praying that a receiver be appointed, and such court shall immediately consider the application and appoint a receiver, if in the judgment of the court the provisions of this act have been wilfully violated. The receiver, when appointed, shall immediately take charge of all the business, property and assets of such corporation in the state and shall retain possession thereof until it shall be determined upon the trial whether or not such corporation has violated the provisions of this act, then, in addition

OIL AND GAS

to the other penalties herein provided, all the property of such corporation shall be retained under such receivership until the penalties incurred hereunder are paid, after which the receivership may be discharged upon such terms and conditions as the court may impose as an assurance for the further compliance with this act.

Sec. 12, Ch. 99, S. L. 1913.

Cited Oklahoma Natural Gas Co. v. State ex Rel, West, 47 Okla. 601, 159 Pac. 475.

612. Evidence—reports of gas companies. A properly certified transcript of the report of any such corporation association, or person, shall, as against the makers thereof, be prima facie evidence of the truth of any matter therein contained.

Sec. 13, Ch. 99, S. L. 1913.

613. Enforcement by Corporation Commission — appeals.

The Corporation Commission is hereby authorized and empowered to enforce all the provisions of this act, including the employment of requisite help and gas experts to carry out the same * * * * *; appeals may be allowed from the decision of the commission to the Supreme Court as now provided by law for appeals in other cases.

Sec. 14, Ch. 99, S. L. 1913.

614. Gas to be confined until used. Any person, co-partnership or corporation in possession, either as owner, lessee, agent or manager of any well producing natural gas, in this State, in order to prevent the said gas wasting by escape shall, immediately after penetrating the gas-bearing rock, in any well hereafter drilled, shut in and confine the gas in said well until and during such time as the gas therein shall be utilized for lights, fuel or power purposes; Provided, that this section shall not apply to any well operated for oil; provided, further, that when in the course of drilling, gas production is developed, four days' free time shall be allowed in which to determine whether the well shall be shut and saved for a gas well or drilled further for the purpose of producing oil.

L. 1909, p. 131, Sec. 4319, R. L. 1910.

Superseded by Ch. 197, S. L. 1915. Duluth & Okla. Oil Co. v. Love et al., No. 216 Equity, Western Dist. of Okla., decided Oct. 29, 1917.

615. Unnecessary waste from gas pipe line unlawful. It shall be unlawful for any person, co-partnership or corporation, either as owner, lessee, agent or manager of any pipe line in this State through which natural gas flows from wells utilized for the production of gas only to allow any unnecessary leak or waste to occur from said line.

L. 1909, p. 131, Sec. 4320, R. L. 1910.

616. Flambeau Lights Unlawful. It shall be unlawful to use natural gas for illuminating purposes in what are known as flambeau lights; but nothing herein shall prohibit the use of "Jumbo" burners or other burners in glass globes consuming no more gas than such "Jumbo" burner, nor the burning of flambeau lights, not to exceed four in number, within or near the derrick of any drilling well.

L. 1909, p. 131, Sec. 4321, R. L. 1910.

GAS—PRODUCTION AND TRANSPORTATION

617. Hours lights may be used at derricks. The person, firm, company or corporation consuming said gas, and using burners in open air or in or around derricks, shall turn off said gas not later than eight o'clock in the morning of each day such lights or burners are used, and shall not turn on or re-light the same between the hours of eight o'clock a. m. and five o'clock p. m.

L. 1909, p. 431 Sec. 4322, R. L. 1910.

618. Burning gas during day. No gas shall be used or burned for illuminating purposes between the hours of eight o'clock a. m. and five o'clock p. m., unless the use of the same is regulated by meter.

L. 1909, p. 432, Sec. 4323, R. L. 1910.

619. Disposition of waste from wells. No inflammable product from any oil or gas well shall be permitted to run into any tank, pool, or stream used for watering stock; and all waste of oil and refuse from tanks or wells shall be drained into proper receptacles at a safe distance from the tanks, wells or buildings, and be immediately burned or transported from the premises, and in no case shall it be permitted to flow over the land. Salt water shall not be allowed to flow over the surface of the land.

L. 1909, p. 432, Sec. 4324, R. L. 1910.

620. Abandoned wells to be plugged—how. The Corporation Commission is hereby authorized to prescribe rules and regulations for the plugging of all abandoned oil and gas wells. The same shall be plugged under the direction and supervision of the conservation agents of the Corporation Commission as may be prescribed by the Corporation Commission. All orders and regulations in reference to plugging wells shall be made after general hearing as now prescribed by law for the promulgation of orders by the Corporation Commission.

Sec. 3, Ch. 207, S. L. 1917, amending 4325 R. L. 1910.

621. "Plugged well record" kept open to public. The inspector of oil and gas shall cause to be systematically filed, the records of all oil and gas wells and dry holes plugged in accordance with the preceding section, showing the exact location of each of such wells, the name of the owner, the depth of the wells, and the formation encountered in drilling such wells. These records shall be kept in a book in the office of the chief mine inspector of the State, which shall be known as the "Plugged Well Record" and shall be accessible to public inspection at such regular hours as the chief mine inspector shall direct, not less than two hours per day.

Sec. 4362, R. L. 1910.

L. 1910, p. 106. Corporation Commission substituted for Chief Mine Inspector. Ch. 207, S. L. 1917.

622. Corporation Commission authorized to publish list. The Corporation Commission of the State of Oklahoma is authorized and directed to compile and have published and printed a complete record of all abandoned oil and gas wells and dry holes that have been plugged under the supervision of the chief mine inspector, as shown by the reports of deputy oil and gas inspectors and the affi-

OIL AND GAS

reports in regard thereto returned by said inspectors covering the period from June 30, 1912, down to and including June 30, 1917, which compilation shall be classified by sections, township and range.

Sec. 1, Ch. 208, S. L. 1917.

623. Appropriation. There is hereby appropriated out of the treasury of the State of Oklahoma from moneys, not otherwise appropriated, the sum of \$4,000.00, or so much thereof as may be necessary to cover the cost of compiling, publishing and printing the said record.

Sec. 2, Ch. 208, S. L. 1917.

624. Inspectors — appointment — qualifications. The chief mine inspector shall appoint, subject to removal by him, such deputies of practical experience in operating and drilling oil and gas wells, and who are not directly or indirectly interested in the production of oil or gas, as may be necessary to the full and prompt performance of the duties required by law. The chief mine inspector, or his deputies, shall personally supervise the using and operating of natural gas in this state, and the proper observance of the laws of the state dealing with the drilling for and production of oil and gas, or the piping, storage, purchase and use thereof in the state.

* * * * * Sec. 1, Ch. 207, S. L. 1913, amending Sec. 4829 Snyder's Compiled Laws 1909. Corporation Commission substituted for Chief Mine Inspector. Ch. 207, S. L. 1917.

Duties transferred to Corporation Commission by Ch. 207 S. L. 1917 (Sec. 569 herein) State ex Rel. Breene v. Howard, No. 9114, decided Feb. 12, 1918.

625. Inspector to supervise plugging. Whenever it becomes necessary to plug any well as required by law, the lessee or operator thereof shall at once notify, in writing, the inspector of oil and gas at the office of the chief mine inspector, or by personal written notification to the inspector of oil and gas at his residence, whereupon said inspector, or his deputy, shall repair to said well and supervise the plugging thereof.

L. 1909, p. 131, Sec. 4328, R. L. 1910. Corporation Commission substituted for Chief Mine Inspector, Ch. 207, S. L. 1917.

626. Operator to furnish inspector record of drilling. Upon the arrival of said inspector, or his deputy, at the well to be plugged, the lessee or operator thereof shall furnish the inspector a record of the drilling of said well, verified under oath, showing a true and correct log of the well.

L. 1909, p. 131, Sec. 4329, R. L. 1910.

627. Firing oil or gas, or interfering with appliances unlawful. It is hereby declared to be unlawful for any person maliciously to set fire to any gas or oil escaping from wells, broken or leaking mains, pipes, valves, tanks or other appliances used by any person or corporation in conveying gas or oil or to interfere in any manner with the wells, pipes, mains, gate boxes, valves, stop-cocks, or other appliances, machinery or property of any person or corporation engaged in furnishing gas or oil, unless employed by or acting under the authority, and direction of any such person or corporation owning or operating said gas or oil lines, or the proper legal authorities.

L. 1909, p. 131, Sec. 4329, R. L. 1910.

GAS—PRODUCTION AND TRANSPORTATION

628. Penalty for violation. Any person, co-partnership or corporation violating any of the provisions of this article shall, upon conviction thereof, be fined in any sum not less than twenty-five dollars, nor more than five hundred dollars, in any court having competent jurisdiction in the county in which the act shall have been committed or omitted, or by being imprisoned for not less than thirty days nor more than ninety days, or by both such fine and imprisonment. The amount of said penalty, when collected, shall be paid, one-half to the public road fund of the county in which said suit shall have been brought, and one-half to the informer in said action.

L. 1909, p. 434, Sec. 4331, R. L. 1910.

629. Ownership defined. All natural gas under the surface of any land in this State is hereby declared to be and is the property of the owners, or gas lessees, of the surface under which gas is located in its original state.

Sec. 1, Ch. 198, S. L. 1913.

630. Rights of owners—restrictions on output. Any owner or oil and gas lessee, of the surface, having the right to drill for gas shall have the right to sink a well to the natural gas underneath the same and to take gas therefrom until the gas under such surface is exhausted. In case other parties, having the right to drill into the common reservoir of gas, drill a well or wells into the same, then the amount of gas each owner may take therefrom shall be proportionate to the natural flow of his well or wells to the natural flow of the well or wells of such other owners of the same common source of supply of gas, such natural flow to be determined by any standard measurement at the beginning of each calendar month; provided, that not more than twenty-five per cent. of the natural flow of any well shall be taken, unless for good cause shown, and upon notice and hearing the Corporation Commission may, by proper order, permit the taking of a greater amount. The drilling of a gas well or wells by any owner or lessee of the surface shall be regarded as reducing to possession his share of such gas as is shown by his well.

Sec. 2, Ch. 198, S. L. 1913.

631. Purchasers of output—prices and amounts of gas to be taken. Any person, firm or corporation, taking gas from a gas field, except for purposes of developing a gas or oil field, and operating oil wells, and for the purpose of his own domestic use, shall take ratably from each owner of the gas in proportion to his interest in said gas, upon such terms as may be agreed upon between said owners and the party taking such, or in case they cannot agree at such a price and upon such terms as may be fixed by the Corporation Commission after notice and hearing; provided, that each owner shall be required to deliver his gas to a common point of delivery on or adjacent to the surface overlying such gas.

Sec. 3, Ch. 198, S. L. 1913.

OIL AND GAS

632. Taking more than share of gas—damages and penalties. Any person, firm or corporation, taking more than his or its proportionate share of such gas, in violation of the provisions of this act, shall be liable to any adjoining well owner for all damages sustained thereby and subject to a penalty for each violation, not to exceed five hundred (\$500.00) dollars, and each day such violation is continued shall be a separate offense.

Sec. 4, Ch. 198, S. L. 1913.

633. Violations of act—punishment. Any person or agent of a corporation who takes gas, or aids or abets in the taking of gas, except as herein provided, either directly or indirectly, as an individual, officer, agent, or employee of any corporation, shall be guilty of grand larceny, and, upon conviction thereof, shall be sentenced to the penitentiary not to exceed five (5) years.

Sec. 5, Ch. 198, S. L. 1913.

634. Waste prohibited. The production of natural gas in the State of Oklahoma, in such manner, and under such conditions as to constitute waste, shall be unlawful.

Sec. 1, Ch. 197, S. L. 1915.

635. Waste defined. The term waste, as used herein in addition to its ordinary meaning, shall include escape of natural gas in commercial quantities into the open air, the intentional drowning with water of a gas stratum capable of producing gas in commercial quantities, underground waste, the permitting of any natural gas well to wastefully burn and the wasteful utilization of such gas.

Sec. 2, Ch. 197, S. L. 1915.

636. Conservation of gas. Whenever natural gas in commercial quantities, or a gas-bearing stratum, known to contain natural gas in such quantity, is encountered in any well drilled for oil or gas in this state, such gas shall be confined to its original stratum until such time as the same can be produced and utilized without waste, and all such strata shall be adequately protected from infiltrating waters. Any unrestricted flow of natural gas in excess of two million cubic feet per twenty-four hours shall be considered a commercial quantity thereof; provided, that if in the opinion of the Corporation Commission, gas of a lesser quantity shall be of commercial value, said commission shall have authority to require the conservation of said gas in accordance with the provisions of this act; and provided, further, the gauge of the capacity of any gas well shall not be taken until such well has been allowed an open flow for the period of three days.

Sec. 3, Ch. 197, S. L. 1915.

637. Excess gas supply—apportionment. Whenever the full production from any common source of supply of natural gas in this state is in excess of the market demands, then any person, firm or corporation, having the right to drill into and produce gas from any such common source of supply, may take therefrom only such proportion of the natural gas that may be marketed without

GAS CONSERVATION

waste, as the natural flow of the well or wells owned or controlled by any such person, firm or corporation bears to the total natural flow of such common source of supply having due regard to the acreage drained by each well, so as to prevent any such person, firm or corporation securing any unfair proportion of the gas therefrom; provided, that the Corporation Commission may by proper order permit the taking of a greater amount whenever it shall deem such taking reasonable or equitable. The said commission is authorized and directed to prescribe rules and regulations for the determination of the natural flow of any such well or wells, and to regulate the taking of natural gas from any or all such common sources of supply within the State, so as to prevent waste, protect the interests of the public, and of all those having a right to produce therefrom, and to prevent unreasonable discrimination in favor of anyone such common source of supply as against another.

Sec. 4, Ch. 197, S. L. 1915.

638. "Common purchaser"—fair treatment. Every person, firm or corporation, now or hereafter engaged in the business of purchasing and selling natural gas in this State, shall be a common purchaser thereof, and shall purchase all of the natural gas which may be offered for sale, and which may reasonably be reached by its trunk lines, or gathering lines without discrimination in favor of one producer as against another, or in favor of any one source of supply as against another save as authorized by the Corporation Commission after due notice and hearing; but if any such person, firm or corporation, shall be unable to purchase all the gas so offered, then it shall purchase natural gas from each producer ratably. It shall be unlawful for any such common purchaser to discriminate between like grades and pressures of natural gas, or in favor of its own production, or of production in which it may be directly or indirectly interested, either in whole or in part, but for the purpose of prorating the natural gas to be marketed, such production shall be treated in like manner as that of any other producer or person, and shall be taken only in the ratable proportion that such production bears to the total production available for marketing. The Corporation Commission shall have authority to make regulations for the delivery, metering and equitable purchasing and taking of all such gas and shall have authority to relieve any such common purchaser, after due notice and hearing, from the duty of purchasing gas of an inferior quality or grade.

Sec. 5, Ch. 197, S. L. 1915.

639. Hearings before the Corporation Commission—how conducted. Any person, firm or corporation, or the attorney general, on behalf of the State may institute proceedings before the Corporation Commission, or apply for a hearing before said commission, upon any question relating to the enforcement of this act; and jurisdiction is hereby conferred upon said commission to hear and determine the same, said commission shall set a time and place when such hearing shall be had and give reasonable notice thereof

OIL AND GAS

to all persons or classes interested therein by publication in some newspaper or newspapers having general circulation in the state, and shall in addition thereto cause notice to be served in writing upon any person, firm, or corporation, complained against in the manner now provided by law for serving summons in civil actions. In the exercise and enforcement of such jurisdiction said commission is authorized to summon witnesses, make ancillary orders, and use such mesne and final process including inspection and punishment as for contempt analogous to proceedings under its control over public service corporations as now provided by law.

Sec. 6, Ch. 197, S. L. 1915.

640. Appeals to Supreme Court. Appellate jurisdiction is hereby conferred upon the Supreme Court of this State to review the orders of said commission made under this act. Such appeal may be taken by any person, firm or corporation, shown by the record to be interested therein, in the same manner and time as appeals are allowed by law from other orders of the Corporation Commission. Said orders so appealed from, may be superseded by the commission or by the Supreme Court upon such terms and conditions as may be just and equitable.

Sec. 7, Ch. 197, S. L. 1915.

641. Power of Corporation Commission—rules and regulations. The Corporation Commission shall have authority to make regulations for the prevention of waste of natural gas, and for the protection of all natural gas, fresh water, and oil-bearing strata encountered in any well drilled for oil or natural gas, and to make such other rules and regulations, and to employ or appoint such agents, with the consent of the governor, as may be necessary to enforce this act.

Sec. 8, Ch. 197, S. L. 1915.

642. Acceptance by pipe lines. Before any person, firm or corporation shall have, possess, enjoy or exercise the right of eminent domain, right of way, right to locate, maintain, construct or operate pipe lines, fixtures, or equipments belonging thereto or used in connection therewith, for the carrying or transportation of natural gas, whether for hire or otherwise or shall have the right to engage in the business of purchasing, piping, or transporting natural gas, as a public service, or otherwise, such person, firm or corporation, shall file in the office of the Corporation Commission a proper and explicit acceptance of the provisions of this act.

Sec. 9, Ch. 197, S. L. 1915.

Sec. 19, Ch. 197, S. L. 1915; repealed by Sec. 6, Ch. 207, S. L. 1917.

643. Validity of several sections of act independent. The invalidity of any section, subdivision, clause, or sentence of this Act shall not in any manner affect the validity of the remaining portion thereof.

Sec. 20, Ch. 197, S. L. 1915.

644. Penalties for violation. In addition to any penalty that may be imposed by the Corporation Commission for contempt,

CONSERVATION RULES

any person, firm or corporation, or any officer, agent or employee thereof, directly or indirectly violating the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction thereof, in a court of competent jurisdiction, shall be punished by a fine in any sum not to exceed five thousand (\$5,000.00) dollars, or by imprisonment in the county jail not to exceed thirty (30) days, or by both such fine and imprisonment.

Sec. 12, Ch. 197, S. L. 1915.

On power of the State to enact conservation laws, see annotations under Oil Conservation Law, *supra*.

See also *Duluth & Okla. Oil Co., v. Love et al.*, No. 246, in equity, Western Dist. of Okla., decided Oct. 29, 1917, wherein the court said:

"The court is agreed that neither the National nor the State Constitution are violated by the order of the Corporation Commission here involved.

"The court is agreed that Section 4319 of the Revised Laws of Oklahoma of 1910 is superseded by Chapter 197 Laws of Oklahoma of 1915 at least to the extent of authorizing the character of order here involved."

ORDER No. 1299—RULES, REGULATIONS AND REQUIREMENTS GOVERNING THE CONSERVATION OF NATURAL GAS AND CRUDE OIL, OR PETROLEUM, IN THE STATE OF OKLAHOMA, PRESCRIBED BY THE CORPORATION COMMISSION.

Rule 1. Waste prohibited. Natural gas and crude oil or petroleum shall not be produced in the State of Oklahoma in such manner and under such conditions as to constitute waste. Sec. 1, Ch. 197, S. L. 1915; Rule 1, Order No. 937.

Rule 2. Waste defined. The term "waste," as above used in addition to its ordinary meaning shall include (a) escape of natural gas in commercial quantities into the open air; (b) the intentional drowning with water of a gas stratum capable of producing gas in commercial quantities; (c) underground waste; (d) the permitting of any natural gas well to wastefully burn; and (e) the wasteful utilization of such gas. Sec. 2, Ch. 197, S. L. 1915; Rule 2, Order No. 937.

Rule 3. Gas to be confined—strata to be protected. Whenever natural gas in commercial quantities or a gas bearing stratum known to contain natural gas in such quantities is encountered in any well drilled for oil or gas in this State, such gas shall be confined to its original stratum until such time as the same can be produced and utilized without waste, and all such strata shall be equitable. Sec. 4, Ch. 197, S. L. 1915; Rule 5, Order 937.

Rule 4. Commercial quantities defined. Any gas stratum showing a well defined gas sand and producing gas shall be considered capable of producing gas in commercial quantities and any gas coming from such a stratum or sand shall be considered a commercial quantity and such stratum or sand shall be protected the same as if it produced gas in excess of two million cubic feet per day of twenty-four hours. Sec. 3 Ch. 197, S. L. 1915; Rule 4, Order No. 937.

Rule 5. Gas to be taken ratably. Whenever the full production from any common source of supply of natural gas in this State is in excess of the market demands, then any person, firm or corporation having the right to drill into and produce gas from any such common source of supply, may take therefrom only such proportion of the natural gas that may be marketed without waste, as the natural flow of the well or wells owned or controlled by any such person, firm or corporation bears to the total natural flow of such common source of supply having due regard to the acreage drained by each well so as to prevent any such person, firm or corporation securing any unfair proportion of the gas therefrom; provided, that the Corporation Commission may by proper order, permit the taking of a greater amount whenever it shall deem such taking reasonable or equitable. Sec. 4 Ch. 197, S. L. 1915; Rule 5, Order 937.

Rule 6. Common purchaser rule. Every person, firm or corporation, now or hereafter engaged in the business of purchasing and selling natural gas in this State, shall be a common purchaser thereof, and shall purchase all of the natural gas which may be offered for sale, and which may reasonably be reached by its trunk lines, or gathering lines, without discrimination in favor of one producer as against another, or in favor of any one source of supply as against another save as authorized by the Corporation Commission after due notice and hearing, but if any such person, firm or corporation shall be unable to purchase all the gas so offered, then it shall purchase natural gas from each producer ratably. Sec. 5, Ch. 197, S. L. 1915; Rule 6, Order No. 937.

OIL AND GAS

Rule 7. Common Purchaser—discrimination prevented. No common purchaser shall discriminate between like grades and pressures of natural gas, or in favor of its own production or of production in which it may be directly or indirectly interested, either in whole or in part, but for the purpose of protecting the natural gas to be marketed, such production shall be treated in like manner as that of any other producer or person, and shall be taken only in the ratable proportion such production bears to the total production available for marketing. Sec. 5, Ch. 197, S. L. 1915; Rule 7, Order 937.

Rule 8. Gas to be metered. All gas produced from the deposits of this State when sold shall be measured by meter and the Corporation Commission shall, upon notice and hearing, relieve any common purchaser from purchasing gas of an inferior quality or grade, and the commission shall from time to time make such regulations for delivery, metering and equitable purchasing and taking as conditions may necessitate. Sec. 5, Ch. 197, S. L. 1915; Rule 8, Order No. 937.

Rule 9. Commission shall regulate the taking of natural gas. The Corporation Commission shall as occasion arises, prescribe rules and regulations for the determination of the natural flow of any well or wells in this State and shall regulate the taking of natural gas from any and all common sources of supply within the State so as to prevent waste, protect the interests of the public and of all those having a right to produce therefrom, and shall prevent unreasonable discrimination in favor of any one common source of supply as against another. Sec. 4, Ch. 197, S. L. 1915; Rule 9, Order No. 937.

Rule 10. Eminent domain—acceptance of law to be filed with commission. Before any person, firm or corporation, shall have, possess, enjoy or exercise the right of eminent domain, right-of-way, right to locate, maintain, construct or operate pipe lines, fixtures, or equipment belonging thereto or used in connection therewith, for the carrying or transportation of natural gas whether for hire or otherwise, or shall have the right to engage in the business of purchasing, piping or transporting natural gas, as a public service corporation, or otherwise, such person, firm or corporation, shall file in the office of the Corporation Commission a proper and explicit authorized acceptance of the provisions of the law. Sec. 9, Ch. 197, S. L. 1915; Rule 10, Order No. 937.

Rule 11. Duties of conservation officers in reference to Rule 10. All conservation agents of the Corporation Commission are directed to inquire into the matter of the performance of and compliance with the foregoing rule (10), and to prevent the transportation of gas by any person, firm or corporation, found not to have complied with said rule. Sec. 8, Ch. 197, S. L. 1915; Rule 11, Order No. 937.

Rule 12. Approved methods of preventing waste to be used. All operators, contractors, or drillers, pipe line companies, gas distributing companies or individuals, drilling for or producing crude oil or natural gas, or piping oil or gas for any purpose, shall use every possible precaution in accordance with the most approved methods, to stop and prevent waste of oil and gas, or both, in drilling and producing operations, storage, or in piping or distributing, and shall not wastefully utilize oil or gas, or allow same to leak or escape from natural reservoirs, wells, tanks, containers, or pipes. See also Rule 28 infra.

Rule 13. Notice of intention to drill, deepen or plug. Notice shall be given to the Corporation Commission of the intention to drill, deepen or plug any well or wells and of the exact location of each and every such well. In case of drilling, notice should be given at least five days prior to the commencement of drilling operations.

Notice of intention to plug must be accompanied by a complete log of the well, or forms prescribed by the Corporation Commission.

Blanks for notification and reports can be obtained on application to the Corporation Commission or its conservation agents.

Rule 14. Plugging dry and abandoned wells.

(a) Must Be Plugged Under Supervision of Conservation Agent.

All abandoned or dry wells shall immediately be plugged under the supervision of an oil and gas conservation agent of the Corporation Commission.

(b) Manner of Plugging.

All dry or abandoned wells must be plugged by confining all oil, gas or water in the strata in which they occur by the use of mud-laden fluid, and in addition to mud-laden fluid, cement and plugs may be used.

These wells must first be thoroughly cleaned out to the bottom of the hole and before the cement is removed from the hole, the hole must be filled from the bottom to the top with mud-laden fluid of maximum density and which shall weigh at least 25 per cent. more than an equal volume of water; unless the conditions direct that some other method shall be used.

(c) Notice of Intention to Plug.

Before plugging dry and abandoned wells, notice shall be given to the Corporation Commission or its conservation agent in the field and to all available adjoining lease and property owners, and representatives of such lease and property owners, in addition to the oil and gas conservation agent of the

CONSERVATION RULES

Commission, be present to witness the plugging of these wells if they so desire, but plugging shall not be delayed because of failure or inability to deliver notices to adjoining lease and property owners.

Rule 15. Log and plugging record to be filed with commission. The owner or operator shall, upon the completion of any well, file with the Corporation Commission a complete record or log of the same, duly signed and sworn to, upon blanks to be furnished by the commission upon application; and upon plugging any well for any cause whatsoever, a complete record of the plugging thereof shall be made out and duly verified on blanks to be furnished by the commission. Rule 25, Order No. 937.

Rule 16. Proper anchorage to be laid. Before any well is begun in any field where it is not known that high pressure does not exist, proper anchorage shall be laid, so that the control casing-head may be used on the inner string of casing at all times and this type of casing-head shall be kept in constant use unless it is known from previous experience and operations on wells adjacent to the one being drilled that high pressure does not exist or will not be encountered therein. Rule 15 Order No. 937.

Rule 17. Equipment for conserving natural gas shall be provided before "drilling in." In all proven or well defined gas fields or where it can reasonably be expected that gas in commercial quantities will be encountered adequate preparation shall be made for the conservation of gas before "drilling in," any well; and the gas sands shall not be penetrated until equipment (including mud pumps, lubricators, etc.) for "mudding in" all gas strata, or sands shall have been provided.

Rule 18. Separate slush pit to be provided. Before commencing to drill a well, a separate slush pit or sump hole shall be constructed by the owner, operator or contractor for the reception of all pumpings from clay or soft shale formations in order to have the same on hand for the making of mud-laden fluid. Rule 14 Order No. 937.

NOTE: In order to avoid freezing casing operators are cautioned not to allow sand or lime to be mixed with clay or soft shale pumpings.

Rule 19. Wells not to be permitted to produce oil and gas from different strata. No well shall be permitted to produce both oil and gas from different strata unless it be in such manner as to prevent waste of any character to either product. Therefore if a strata should be encountered bearing gas and the owner, operator, or contractor should go deeper in search for other gas or oil bearing sands, the stratum first penetrated and likewise each and every sand in turn, shall be closed separately, and if it is not wanted for immediate use, it shall be securely shut in so as to prevent waste, either open or underground. Rule 16, Order No. 937.

Rule 20. Strata to be sealed off. No well shall be drilled through or below any oil, gas or water stratum without sealing off such stratum or the contents thereof, after passing through the sand, either by the mud-laden fluid process or by casing and packers, regardless of volume or thickness of sand. Rule 17, Order No. 937.

Rule 21. Mud-laden fluid to be applied. No gas sand or stratum upon being penetrated shall be drilled or left open more than three days without the application of mud-laden fluid to prevent the escape of gas while further drilling in or through such sand or stratum. Sec. 3, Ch. 197, S. L. 1915; Rule 18, Order No. 937.

Rule 22. Density of mud fluid where well containing water is drilled into oil or gas producing strata. No operator shall drill a well into an oil or gas producing sand with water from a higher formation in the hole, or with a sufficient head of water introduced into the hole to prevent gas blowing to the surface. The well shall either be allowed to blow until the sand has been drilled in or it shall be drilled in under a head of fluid consisting of not less than 25 per cent mud; but in no case shall gas be allowed to blow for a longer period than three days. Mud fluid used for protecting oil and gas bearing sands in upper formations while oil or gas being produced from deeper formations shall have a density of not less than 25 per cent mud and should contain not less than 28 per cent mud.

Rule 23. Mud-laden fluid to be applied in pulling or redeeming casing. No outside casing from any oil or gas well in an unexhausted oil or gas field shall be pulled without first flooding the well with mud-laden fluid behind the inside string of casing after unseating the casing, and as casing is withdrawn, well shall be kept full to top with said mud-laden fluid and same shall be left in the hole; and said mud-laden fluid shall be so applied as to effectively seal off all fresh or salt water strata, and all oil or gas strata not being utilized. Rule 23, Order No. 937.

Rule 24. Mud-laden fluid—when to be applied to completed wells. When necessary (or in any event when ordered by the Corporation Commission) to seal off any oil, gas or water sand, casing shall be seated in mud-laden fluid; and concerning wells already drilled, the operator shall, upon the order of the Corporation Commission raise any string or strings of casings and re-seat them in mud-laden fluid when it is thought advisable to do so in order to avoid existing underground waste, pollution or infiltration. Rule 22, Order No. 937.

OIL AND GAS

Rule 25. Fresh water to be protected. Fresh water, whether above or below the surface, shall be protected from pollution, whether in drilling or plugging. Rule 14, Order No. 937.

Rule 26. Gas to be separated from oil. No gas found in the upper part of a level or sand which can be separated from the oil in the lower part of the same sand or in a lower or different sand shall be allowed or used to flow oil to the surface and all gas, so far as it is possible to do so, shall be separated from the oil and securely protected. Rule 19, Order No. 937.

Rule 27. Separating device to be installed upon order of commission. Where oil and gas are found in the same stratum and it is impossible to separate the one from the other, the operator shall, upon being so ordered by the Corporation Commission, install a separating device of approved type, which shall be kept in place and used as long as necessity therefor exists, and after being installed, such device shall not be removed nor the use thereof discontinued without the consent of the Corporation Commission. Rule 20, Order No. 937.

Rule 28. Gas wells not to produce from different sands at the same time through the same string of casing. No gas well shall be permitted to produce gas from different levels, sands or strata at the same time through the same string of casing (Sec. 3, Ch. 197, S. L. 1915) and when gas upon being found is not needed for immediate use, the same shall be confined in its original stratum until such time as the same can be produced and utilized without waste (Sec. 3, Ch. 197, S. L. 1915), and in confining gas to its original place, the mud-laden fluid process shall be used unless the character of the formation involved is sufficiently ascertained and understood to know that the casing and packer method with Braden-head attachment can be safely applied and competently used, and in the use of the casing, packing and Braden-head method, separate strings of casing shall be run to each sand and the application of the latter method in preference to the former shall not be made without notice to and consent of the Corporation Commission. Rule 21, Order No. 937.

Rule 29. Vacuum pumps not to be installed except upon application to this commission. The future installation of vacuum pumps or other devices for the purpose of putting a vacuum on any gas or oil bearing stratum is prohibited, provided that any operator desiring to install such apparatus may, upon notice to adjacent lease owners or operators, apply to the commission for permission; and in the matter of vacuum pumps heretofore installed, the use of same is authorized unless specifically discontinued by order of the commission upon notice and hearing. Rule 22, Order No. 937.

Rule 30. Shooting of wells.

(a) Wells Not to Be Shot Into Salt Water.

No wells shall be so shot as to let in salt water or other foreign substance injurious to the oil or gas sand.

(b) Reports to Be Made to the Corporation Commission.

Reports shall be made to the Corporation Commission on all wells shot, showing the condition of the well before and after shooting, including the size of the shot, sand or sands shot, production before and after shooting, per cent. of water in well before and after shooting.

(c) Damaged Wells to Be Abandoned.

In case irreparable injury is done to the well, or to the oil or gas sand or sands by shooting, the well shall immediately be abandoned and plugged as provided by Rule No. 14 herein.

Rule 31. Gauge to be taken—reports to commission. All oil and gas operators shall between the first and tenth of each calendar month take a gauge of the volume and rock pressure of all wells producing natural gas, and shall forthwith report to the Corporation Commission on gauge blanks furnished by the commission. Rule 26, Order No. 937.

Rule 32. Production to be restrained to 25 per cent. of potential capacity. Where the gas from any well is being used, the flow or production thereof shall be restrained to 25 per cent. of the potential capacity of the same; that is to say, in any day (24 hours) the well shall not be permitted to flow or produce more than one-fourth of the potential capacity thereof, as shown by the last monthly gauge. Rule 29, Order No. 937.

Rule 33. Notification of fires and breaks or leaks in lines. All drillers, operators, pipe line companies, and individuals operating oil and gas wells or pipe lines shall immediately notify the commission by telegraph or telephone upon the occurrence of all fires which occur at oil and gas wells or oil tanks owned, operated, or controlled by them or on their property, and shall immediately report all fires caused by lightning and any other fires which destroy crude oil or natural gas, and shall immediately report in the manner heretofore described any break or leak in tanks or pipe lines from which oil or gas is escaping. In all reports of fires, breaks, or leaks in pipes, or other accidents of this nature, the location of the well, tank, or line break shall be given, showing location by quarter, section, township, and range.

Rule 34. Reports from pipe line companies. The commission will from time to time require oil and gas pipe line companies to make reports to the commission concerning any flowing wells connected with their lines during any month, the amount of production taken therefrom, names of parties from whom the oil and gas are purchased, the amount of oil or gas purchased therefrom; and

CONSERVATION RULES

all oil and gas pipe line companies shall, in addition to the other reports required by the rules of the Corporation Commission, furnish to the commission duplicates of all reports made to the state auditor under the oil and gas gross production tax laws. The commission will, in case of over-production or for any other reason which it deems urgent, require oil or gas pipe line companies to furnish daily reports of the amount of oil or gas purchased or taken from different wells or parties.

Rule 35. Prescribing conditions under which pipe line companies may connect with oil or gas wells. Pipe line companies shall not connect with oil or gas wells until the owners or operators thereof shall furnish a certificate from the Corporation Commission that the conservation laws of the State have been complied with: Provided, this rule shall not prevent the temporary connection with any well or wells in order to take care of production and prevent waste until opportunity shall have been given the owner or operator of said well to secure certificate showing compliance with the conservation laws of the State.

Rule 36. Conservation laws and rules of the Corporation Commission to be complied with before connecting wells with pipe lines. Owners or operators of oil or gas wells shall, before connecting with any oil or gas pipe line, secure from the Corporation Commission a certificate showing compliance with the oil and gas conservation laws of the State and conservation orders of the Corporation Commission: Provided that this rule shall not prevent temporary connection with pipe lines in order to take care of production until opportunity shall have been given for securing such certificate: Provided, further, that the owners or operators of such wells shall in a known or proven field make application for such certificate in anticipation of production.

Rule 37. Drilling records to be kept at wells. All operators, contractors, or drillers shall keep at each well accurate records of the drilling, re-drilling, or deepening of all wells, showing all formations drilled through, casing used, and other information in connection with drilling and operation of property and any and all of this information shall be furnished to the commission upon request, or to any conservation agent of the commission.

Rule 38. Conservation agents to have access to all wells and all well records. Conservation agents of the commission shall have access to all wells and to all well records, and all companies, contractors, or drillers shall permit any conservation agent of the Corporation Commission to come upon any lease or property operated or controlled by them, and to inspect any and all wells and the records of said well or wells, and to have access at all times to any and all wells, and any and all records of said wells.

Provided, that information so obtained by conservation agents shall be considered official information and shall be reported only to the Corporation Commission.

Rule 39. Notice to contractors, drillers, and others to observe rules. All contractors and drillers carrying on business or doing work in the oil or gas fields of the State, as well as lease-holders, land owners, and operators generally shall take notice of and are hereby directed to observe and apply the foregoing rules and regulations; and all contractors, drillers, land owners and operators will be held responsible for infraction of said rules and regulations.

Rule 40. Conservation agents to co-operate with oil and gas inspectors of the department of the interior. All conservation agents appointed by the Corporation Commission shall co-operate with and invite the co-operation of the oil and gas inspectors of the United States Bureau of Mines of the Department of the Interior.

Rule 41. Conservation agents to assist in enforcement of rules. All conservation agents of the commission shall assist in the enforcement of these rules and shall immediately notify the commission upon observance of any infraction thereof.

Additional rules will be prescribed from time to time. The commission will from time to time prescribe additional rules, regulations, and requirements for the conservation of crude oil, or petroleum, and natural gas.

This Order effective August 20, 1917, and supersedes Order No. 937 which has been in effect since September 1, 1915.

ARTICLE VI.

LAWS RELATING TO THE INSPECTION OF GASOLINE AND OTHER PETROLEUM PRODUCTS.

Sec.

- 645. Jurisdiction to inspect liquid products conferred on Corporation Commission.
- 646. Terms defined.
- 647. Duties of inspector.
- 648. Inspectors—appointment—duties—salaries.
- 649. Oil test
- 650. Manner of testing oils.
- 651. Approval or condemnation after test.
- 652. Oil condemned may be used for what purposes.

OILS AND GASOLINE

- 653. Sale of uninspected oils.
- 654. Sale of condemned oils.
- 655. Penalty for hindering inspection.
- 656. Fees of oil inspectors.
- 657. Fees—by whom paid.
- 658. Records and reports.
- 659. Bonds.
- 660. Law not to apply, when.
- 661. Failure to erase marks or brands—penalty.
- 662. Misconduct of inspector—penalty.
- 663. Neglect or misconduct of duty—penalty.
- 664. Imitation or alteration of inspector's marks—penalty.
- 665. Unlawful importation and sale of oil.
- 666. Civil liability for unlawful sales.
- 667. Adulteration.
- 668. Certain oils to be tested by gravity test.
- 669. Brands to be affixed by inspector.
- 670. Further rules for inspection.
- 671. Brands to be affixed by manufacturers and dealers.
- 672. Recovery of fines and penalties.
- 673. Liability of manufacturers and wholesalers.
- 674. Prosecutions.

645. Jurisdiction to inspect liquid products conferred on Corporation Commission. Jurisdiction is hereby conferred upon the Corporation Commission to inspect all oils and liquids, the product of petroleum or other bituminous substances or into which the product of petroleum enters by whatever name called, which may or can be used for illuminating, heating or power purposes manufactured in this State or brought into it, before the same are consumed, used, sold or offered to be sold or disposed of to merchants, consumers, or other persons within this State, and the Corporation Commission is hereby authorized to appoint, with the approval of the Governor, oil inspectors who shall perform the duties now prescribed by Chapter 96, Session Laws 1915, (following sections herein) and to perform such other duties as may be required by general rules and regulations of the Corporation Commission.

Sec. 1, Ch. 207, S. L. 1917; effective February 16, 1917, amending Sec. 4332, R. L. 1910.

646. Terms defined. The word "manufacture" as used herein shall mean persons or corporations engaged in the distillation of petroleum by the usual process, and the word "person" as used herein shall mean and include all persons, groups of persons, firms and corporations whether acting as owner bailee or agent.

L. 1903, p. 181. Sec. 4333, R. L. 1910.

647. Duties of inspector. It shall be the duty of the inspector of oils or his deputies to examine and test, within this State, the safety and quality of all oils before the same shall be offered for sale by the manufacturer, vendor or dealer, and if, upon such examination and testing, they shall meet the requirements, herein-after specified, in all cases where the oils inspected are in tanks, reservoirs, barrels or casks, he shall issue his certificate to the person or agent in possession of such oil, certifying that said oils have been inspected and approved or rejected, as the law provides, before the same has been mixed with other oils of like tests, and inserting in said certificate the actual test. And where oils are found in packages, barrels, or casks, then he shall fix his brand, giving the actual test, with the date and his official signature, upon the package,

INSPECTION

barrel or cask containing the same. If such oils so examined or tested, shall not meet the required test as hereinafter specified, the words "unsafe, rejected," shall be marked in plain letters on the package, barrel, cask, reservoir or tank containing the same.

L. 1903, p. 181. Sec. 4331, R. L. 1910.

648. Inspectors—appointment—duties—salaries. The State Mine Inspector (Corporation Commission), shall be ex-officio gauger of liquids used for illuminating, heating or power purposes, and he will appoint and assign for duty deputy oil inspectors at any point where there are located tank stations, or refineries; provided, that said deputy shall not be agent or employe of any oil company or in any manner interested in the sale of oil. Each such deputy inspector may retain seventy-five (75%) per cent. of the fees collected by him, and all balance thereof shall be remitted by him to the State Oil Inspector (Corporation Commission), with a full statement of the number of gallons of burning oil or kerosene and gasoline inspected, the amount of fees collected, the amount retained and the amount remitted therewith; provided, that in no case shall such fees so retained exceed \$100 for each inspector for any one month. * * * The various deputies provided for herein shall, at their own expense, provide themselves with proper instruments, stencils, letters and brands necessary for them to use in the performance of their duties. Every person appointed state inspector or deputy shall, before he enters upon the duties of his office, take the constitutional oath of office. It shall be the duty of each and every inspector or deputy inspector to accurately stencil the exact gravity of the burning oil or kerosene, or gasoline inspected by him in plain, legible characters upon the container thereof.

Sec. 2, Ch. 96, S. L. 1915, amending Section 4335, R. L. 1910.

NOTE: Inspectors are subject to removal at the will of the Corporation Commission and shall be civilly liable for work performed by them.

649. Oil test. Until changed by the legislature, the flash test provided for under the laws of Oklahoma Territory for all kerosene oil for illuminating purposes shall be 115 degrees Fahrenheit; and the specific gravity test for all such oil shall be 40 degrees Baume.

Sec. 2 (345), Art. 20, Constitution.

650. Manner of testing oils. The inspector shall be a competent and qualified person, and shall, at his own expense, provide himself with the necessary instruments for testing or gauging and weighing the quality of any such oils, which said instruments shall be a Tagliabue open-cup tester and a set of Baume hydrometers for liquids lighter than water. The flash test shall be made in the following manner: First, the water cup shall have sufficient water in it to fill said cup to within one-quarter of an inch of the top when the oil cup is in place. Second, the oil cup shall be filled with the oil to be tested to within one-eighth of an inch of the top and the outside of the cup and the upper level edge of the same freed from oil by means of blotting paper. The surface of the oil in the

OILS AND GASOLINE

cup shall then be freed from air bubbles. Third, the oil cup shall then be placed in the water cup and the thermometer so suspended that the bulb is just under the surface of the oil. Fourth, an alcohol lamp shall be used to heat the water cup, and the oil in the oil cup tested by bringing a lighted taper, hereinafter described, in contact with the surface of the oil; if it does not flash, the lamp shall be placed under the water cup and heating continued until the thermometer registers one hundred degrees Fahrenheit. The lighted taper shall then be applied, so that the flames, but not the taper, come in contact with the surface of the oil. If the oil should flash (that is, a little gas burn on the surface and go out again), the flash point of the oil is one hundred degrees or less. If the oil does not flash, the tester shall continue heating and applying the taper as described and (with) every rise of two degrees in the temperature as indicated by the thermometer until the oil flashes. The temperature at which the oil flashes is the flashing point of the oil and shall be expressed in terms of degrees Fahrenheit. The taper used for testing the flashing point may be made of wood, giving a clear flame and shall be not more than one-sixteenth inch in diameter. No taper or match with sulphur on it shall be used. The weight or specific gravity shall be determined by a standard Baume hydrometer for liquids lighter than water, and the oil so tested shall be at a temperature of sixty degrees Fahrenheit.

L. 1903, p. 182. Sec. 4336, R. L. 1910.

651. Approval or condemnation after test. All oils and fluids specified in Section 4332 (Section 645 herein), except those expressly excepted by Section 4353 (Section 668 herein), that flash at a temperature of one hundred and fifteen degrees Fahrenheit and upward, shall be approved by the inspector; and the barrels, casks or packages containing the same shall be branded or marked by him as provided for in Section 4334 (Section 647 herein) and 4354 (Section 669 herein), and all oils or fluids aforesaid that flash at a less temperature than one hundred and fifteen degrees Fahrenheit shall be condemned by the inspector and the barrels casks or packages containing the same shall be branded or marked by him "Unsafe, Rejected," as provided for in Sections 4334 (Section 647 herein) and 4354 (Section 669 herein).

L. 1903, p. 184. Sec. 4337, R. L. 1910.

652. Oil condemned may be used for what purposes. Use may be made of any of said oils, even though tested and found to flash at a temperature of less than one hundred and fifteen degrees as hereinbefore provided, for consumption in gas plants, either portable or stationary, when said gas is conveyed through pipes and burned through gas burners like ordinary coal gas, and may also be used in the production of steam, in smelting or refining metals or in forges or furnaces, or other mechanical use than heating or illuminating residences, business houses or other structures, and shall not otherwise be sold or used.

L. 1903, p. 184. Sec. 4338, R. L. 1910.

INSPECTION

653. Sale of uninspected oils. If any person in this State shall use, sell or dispose of to merchants, consumers or any other person or persons, within this State, any of the oils or fluids specified in the first section of this article, without the same having been first inspected by an authorized inspector of this State, and the barrels, casks or packages containing the same branded by him as herein provided, said person so offending shall be punished by a fine not exceeding one hundred dollars for each barrel, cask or package of oils or fluids aforesaid so used by, sold or offered for sale to merchants, consumers or any other person or persons within this State.

L. 1903, p. 184. Sec. 4359, R. L. 1910.

654. Sale of condemned oils. If any person in this State shall sell or offer to sell, or in any manner dispose of, to be consumed or used in this State for illuminating purposes any of the oils or fluids specified in the first section of this article, except such oils or fluids as are expressly excepted by Section 4353 (Section 668 herein), that will flash at a temperature less than one hundred and fifteen degrees Fahrenheit, or shall sell or offer for sale, or in any way dispose of to be consumed or used in this State, for illuminating purposes, any of the oils and fluids aforesaid, which have been condemned by an authorized inspector of this State, and the barrels, casks or packages containing the same have been branded or marked by him as unsafe or rejected oils, the person so offending shall be guilty of a misdemeanor and upon conviction be punished by a fine not exceeding one thousand dollars.

L. 1903, p. 185. Sec. 4340, R. L. 1910.

655. Penalty for hindering inspection. Any dealer in or manufacturer or other person in possession of oils or fluids specified in the first section of this article who shall refuse to admit an inspector or his deputy upon his premises, so far as it may be necessary for the performance of his duties, or shall obstruct an inspector or his deputy in the performance of his duties, shall, for each refusal to admit on his premises or obstruction offered to inspection, be fined for each offense not to exceed one hundred dollars.

L. 1903, p. 185. Sec. 4341, R. L. 1910.

656. Fees of oil inspectors. The oil inspectors (Section 645 herein) hereby authorized shall receive the compensation now provided in Chapter 96, Session Laws 1915 (following section herein), for the inspection of oils and liquids.

Sec. 5, Ch. 207 S. L. 1917, effective February 16, 1917.

657. Fees—by whom paid. The inspector and his deputies shall charge and receive for inspecting oils and gasoline in quantities in bulk four cents (4c) per barrel and fifty gallons shall constitute a barrel. If inspected in barrels the inspector shall charge and receive five cents per barrel for inspecting in lots of fifty barrels or more, and ten cents per barrel for inspecting in lots of less than fifty barrels, at one time, which shall be paid by the party owning said oil or having the same in possession at the time of the inspection.

OILS AND GASOLINE

Oils so inspected shall be taken by the inspector or his deputy directly from the original package or container; provided, that in no case shall the retail dealer or consumer be liable to the manufacturer or wholesale dealer for fees paid for inspection of oils while in the possession of a manufacturer or wholesale dealer or one of their agents.

Sec. 3, Ch. 96, S. L. 1915, amending Sec. 4342, R. L. 1910.

658. Records and reports. It shall be the duty of the State Oil Inspector and each deputy to keep an accurate record of all oils and fluids tested by him, which record shall state the date of inspection, the number of gallons contained in each package, barrel, tank or cask, the name of the person or company for whom inspected, and the fees charged and received for inspection; and such record shall at all times be open to examination by all persons interested. On the tenth day of each month, each deputy inspector shall forward to the state inspector, a true copy or transcript of such record for the preceding month, under oath, and shall remit all moneys received by him for such inspection to the state inspector, less the fees retained for his services, as prescribed in Section 4335 (Section 648 herein); and the state inspector shall, on or before the fifteenth day of each month, make a consolidated report of all oils inspected by him or his deputies during the preceding month, under oath, and transmit the same to the state auditor, stating the full amount of fees charged and fees received during the preceding month, how much have been retained by each such deputy for services under the provisions of said Section 4335 (Section 648 herein), and all proper expense accounts of his office; and said state inspector shall at the time of making his report pay to the state treasury and into the general fund thereof all moneys received by him or his deputies less the fees for the services of such deputies as prescribed herein for the inspection of oils and fluids during the preceding month. The treasurer shall credit said money so paid to the State general fund and shall issue said inspector his duplicate receipt therefor, one of which shall be by said inspector immediately filed in the office of the state auditor and the other retained by said inspector and filed in his office. On the thirtieth day of November of each year the state inspector shall make and transmit to the governor of the state a consolidated report of the inspections made by himself and his deputies during the preceding calendar year, together with the fees charged and received and the disposition of them by him made, which report shall be by the governor transmitted to the legislature, together with his recommendations thereon.

L. 1903, p. 186. Sec. 4313, R. L. 1910.

659. Bonds. See Section 4344 R. L. 1910.

660. Law not to apply, when. The provisions of this law shall not apply to oils or fluids brought into this State in transit for shipment to and consumption in other states or territories.

L. 1903, p. 188. Sec. 4315, R. L. 1910.

INSPECTION

661. Failure to erase marks or brands—penalty. If any person shall refill, buy or receive, or shall sell or deliver any empty coal oil barrel or other receptacle used for handling such oils, without first erasing all marks or brands now required by law to be marked or branded on a barrel by an inspector, he shall be guilty of a misdemeanor; and for each barrel or other receptacle so filled with oil, sold and delivered, or bought and received, shall be fined not to exceed five hundred dollars.

L. 1903, p. 188. Sec. 4346, R. L. 1910.

662. Misconduct of inspector—penalty. If any inspector shall deal in or purchase otherwise than for his own use, any article of which he is appointed inspector, or be directly or indirectly interested in the purchase of any such article when condemned, he shall be fined not exceeding ten dollars for every barrel, cask or package so bought or dealt in by him, and if any inspector shall receive or accept any fee or other compensation for inspecting oils without an actual inspection of said oils, he shall be fined not to exceed one hundred dollars for each offense and shall be removed from office.

L. 1903, p. 189. Sec. 4347, R. L. 1910.

663. Neglect or misconduct of duty — penalty. Any inspector of oil who shall wilfully or negligently make any false grade, test or brand of any oils and liquids or who shall knowingly or negligently fail to make such inspection, test, stencils, or brand, as herein provided for shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred (\$100.00) dollars and shall immediately be removed from office.

Sec. 4, Ch. 96, S. L. 1915, amending Sec. 4348, R. L. 1910.

664. Imitation or alteration of inspector's marks—penalty. If any person shall wilfully use or imitate the brand or mark of an inspector on any cask, barrel, reservoir, or other vessel, or shall put any oils as provided by the first section of this article into any cask, barrel, reservoir or other vessel, which has been previously branded by an inspector, without canceling the original brand or mark, or shall alter, erase or obliterate any brand or mark, made by any inspector on any inspected cask, barrel, reservoir or other vessel which contains any oil which has been inspected, or shall mark or brand with the mark or brand of any inspector, or with any imitation thereof, any oils subject to inspection under this article, which have not been inspected, and shall sell or offer to sell or otherwise dispose of the same, he shall, for every such offense, be fined in any sum not to exceed five hundred dollars.

L. 1903, p. 189. Sec. 4349, R. L. 1910.

665. Unlawful importation and sale of oil. No person who shall bring into this State any petroleum oil or product thereof, as provided by the first section of this article, shall empty the same out of the original packages in which it is brought into this State until the same has been inspected. Any person violating the provisions

OILS AND GASOLINE

of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding five hundred dollars, and any such person who shall bring into this State any petroleum oil or any product thereof, as provided by the first section of this article, who shall sell or otherwise dispose of the same after the same have been inspected and found to be below test as provided herein shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars.

L. 1903, p. 189. Sec. 4350, R. L. 1910.

666. Civil liability for unlawful sales. If any person shall sell, offer for sale, or in any way dispose of any petroleum oil or product thereof, as described by the first section of this article, without the same having been first duly inspected according to law, or if any such person shall sell, offer for sale, or in any way dispose of any of the above-named oils or liquids when the same shall have been rejected by any legal inspector of oils, such person shall be liable for any damage or any injury which may have been caused either directly or indirectly by the ignition or combustion of said oils, and when an injury has been caused by said oils, sold or disposed of as above specified, the burden of proof shall be placed upon the person selling or disposing of the same as above specified to show that the injury was not caused by the poor quality of said oils.

L. 1903, p. 190. Sec. 4351, R. L. 1910.

667. Adulteration. No person shall adulterate with paraffin or other substance, for the purpose of sale or for use, any of the illuminating oils specified in this article, in such manner as to render them dangerous for use, nor shall any person sell or offer to sell or knowingly use for illuminating purposes any such adulterated oil. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than one hundred dollars nor more than three hundred dollars.

L. 1903, p. 190. Sec. 4352, R. L. 1910.

668. Certain oils to be tested by gravity test. Gasoline, benzine, naphtha, or other highly inflammable liquids the products of petroleum, shall not be tested by the flash test, but the said fluids shall be tested as to their safety by the specific gravity test. Whenever the said liquids shall be shown to have a specific gravity greater than seventy-four degrees (at a temperature of sixty degrees Fahrenheit) as indicated by the Baume hydrometer for liquids lighter than water, then it shall be deemed unsafe, and its sale or other disposition is hereby prohibited for use in vapor stoves or other domestic use, and any person selling or otherwise disposing of the same shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars for each barrel, cask or other receptacle or part thereof of such oils so sold as above prohibited.

L. 1903, p. 191. Sec. 4353, R. L. 1910.

INSPECTION

669. Brands to be affixed by inspector. In addition to the brand required by Section 4334 (Section 647 herein), it shall be the duty of the inspector or his deputy, after inspecting any of the oils described in the first section of this article, to affix to the receptacle in which such oils are contained, a brand upon which shall be legibly written or printed by him the following inscription, which shall be placed in a conspicuous place thereon:

“This oil has been inspected:
“Flash test -----
“Specific gravity test -----
“Quality of oil -----
“Date of inspection -----

Oil Inspector.
(or Deputy Oil Inspector.)”

L. 1903, p. 191. Sec. 4354, R. L. 1910.

670. Further rules for inspection. It shall be the duty of the inspectors to fill in actual “flash test” in the above inscription, as actually determined by them, under the provisions of Section 4336 (Section 650 herein). It shall be the duty of the inspectors to determine the specific gravity of all oils inspected by them, and they shall do so by means of the Baume hydrometer for liquids lighter than water, and shall insert in the above inscription the actual specific gravity test so found by them; the quality of the oils inspected shall be written in the above inscription by the inspector, according to the following rules:

With the exception of those oils of a highly inflammable character described in the second preceding section (and with the exception of “head light” and other so-called “high-grade oils”) all oils which are found to have a specific gravity of between forty degrees and forty-eight degrees Baume, both inclusive, and which have a flash test of one hundred and twenty degrees Fahrenheit or more, shall be marked “Good”; those having a lower specific gravity than forty degrees or a higher specific gravity than forty-eight Baume or shall flash at a temperature less than one hundred and twenty Fahrenheit, shall be marked “Inferior”. All liquids of a highly inflammable character, such as are described in the second preceding section, which have a specific gravity of between sixty-eight degrees and seventy-two degrees Baume, inclusive, shall be marked “Good”; those having a lower or higher specific gravity, shall be marked “Inferior”. Any inspector or deputy who shall fail to affix the brand, as above specified, for each offense shall be subject to fine of not to exceed twenty-five dollars and to removal from office. Any person who removes, conceals, erases or alters or otherwise tampers with said brands, while oil remains in the receptacle, or any person who fills or partly fills with or pours into any receptacle so branded any oil of a different character from that indicated by the

OILS AND GASOLINE

brand, without completely removing or canceling the brand shall be deemed guilty of a misdemeanor, and shall be fined in any sum not exceeding twenty-five dollars.

L. 1903, p. 192. Sec. 4355, R. L. 1910.

671. Brands to be affixed by manufacturers and dealers. All manufacturers, and wholesale and retail dealers of oils mentioned in the first section of this article, shall at the time of selling or disposing of such oils place a tab or brand upon the vessel plainly designating the "flash test," and the "specific gravity" test, and the quality of the oil contained in said receptacle, which said inscription shall be deemed a guaranty of the quality of the oil contained therein. Said tab or brand shall be similar in all respects to the brand or inscription which the inspector is required by the preceding section to affix. Any person who shall sell or dispose of any oil without affixing the inscription to the receptacle as above provided in this section, and any person who shall affix or shall allow to remain or be affixed an inscription upon any receptacle, of a different character from the oil which is placed in said receptacle, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars. Whenever any manufacturer or jobber of oils has an established trade-mark or trade name for the classification or designation of different grades of his oils or gasolines, he shall supply cards, labels, or signs containing such names or designations to his retail customers, who shall affix the same to their respective tanks or other receptacles containing such oils for sale at retail, in a conspicuous manner, shall not mix or adulterate such liquids nor mingle liquids of different names or bands together. Nor shall any such retailer sell any of such oils under false brand or designation or name different from that which the manufacturer may have adopted as indicative of its quality. Any retailer violating the provisions of this section shall be guilty of a misdemeanor, and on conviction shall be fined in any sum not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

L. 1903, p. 193. Sec. 4356, R. L. 1910.

672. Recovery of fines and penalties. When any fine, penalty or costs are assessed under the provisions of this article, the party against whom such fines, penalties or costs are assessed, if the same shall not be paid, shall stand committed until such fines, penalties and costs are paid: Provided, however, that all fines, penalties or costs provided for by any section of this article may, at the option of the prosecutor, be recovered by a civil action in the name of the State, in any court having jurisdiction of the amount, and the rules of evidence applicable to civil cases shall be applied thereto, and the jury (or the court, in case of trial without a jury) shall fix the amount of recovery within the limits of the fines fixed for each offense respectively, with costs.

L. 1903, p. 194. Sec. 4357, R. L. 1910.

GASOLINE KEPT IN RED TANKS

673. Liability of manufacturers and wholesalers. All manufacturers and wholesale dealers shall be liable to retail dealers and all other persons for damages of every kind and nature, including fines, penalties and civil damages paid by such retail dealers and other persons because of the inferior quality of oil sold by said manufacturers or wholesale dealers to said retail dealers and other persons, and all contracts for the sale or purchase price of oil sold in violation of the provisions of this article shall be void.

L. 1903, p. 194. Sec. 4358, R. L. 1910.

674. Prosecutions. It shall be the duty of the county attorney or the attorney general to prosecute violations of this article and in addition to the penalties herein provided for, there shall be taxed as part of the costs of said case and collected in the same manner as costs in said case an attorney's fee of fifteen dollars in county and justice courts, and thirty dollars in district and superior courts, which said sum shall be paid to the county attorney or attorney general in addition to the salaries otherwise provided for: Provided, that in no case shall the State or any county be liable for such attorney's fee.

L. 1903, p. 194. Sec. 4359, R. L. 1910.

ARTICLE VIa.

REQUIRING GASOLINE TO BE KEPT IN RED TANKS.

Sec.

674a. Gasoline kept in red tanks.

674b. Penalty.

674a. Gasoline kept in red tanks. All grocers, druggists and all other vendors of gasoline in quantities of one hundred and fifty gallons and less are hereby required to put all gasoline by them hereafter kept for sale, or sold, in a red can, tank, barrel or other receptacle, which receptacle shall be labeled "Gasoline", and vendors of kerosene in quantities of two hundred and fifty gallons or less shall not put kerosene in any can, tank, barrel or other receptacle painted red: Provided, that all dealers shall be required to keep for use, and shall place all gasoline by them sold in red cans or other receptacles.

Sec. 6975, R. L. 1910.

History. L. 1907-8, p. 575; effective August 24, 1908.

674b. Penalty. Any grocer, druggist or other persons who shall be convicted of a violation of the provisions of the preceding section shall be deemed guilty of a misdemeanor, and shall be fined not less than ten dollars nor more than fifty dollars, and shall in addition thereto be liable in damages in civil suit for any damage resulting from a violation of the preceding section.

Sec. 6976, R. L. 1910.

History. L. 1907-8, p. 576; effective August 24, 1908.

ARTICLE VII.

OIL AND GAS GROSS PRODUCTION TAX LAW

Sec.

675. Quarter annual reports—oil, gas, mineral production—taxes—regulations.

676. Delinquent tax—collections.

OIL AND GAS

- 677. Purchasers' reports—enforcement of regulations.
- 678. Reports of shippers.
- 679. Distribution and use of taxes.
- 680. Validity of provision.
- 681. Act not retroactive.
- 682. Effect of invalid parts of act.

675. Quarter annual reports—oil, gas, mineral and production—taxes—regulations. Every person, firm, association or corporation engaged in the mining or production within this State of asphalt or of ores bearing lead, zinc, jack, gold, silver or copper, or of petroleum or other crude oil or other mineral oil or of natural gas, shall within thirty days after expiration of the quarter-annual period ending on the last day of March, A. D., 1916, and of each quarter-annual period thereafter expiring respectively, on the last day of June, September, December and March of each year, file with the state auditor, a statement under oath, on forms prescribed by him showing the location of each mine or oil or gas well operated by such person, firm, corporation or association during the last preceding quarter-annual period; the kind of such mineral, oil or gas produced; the gross amount thereof produced, and the actual cash value thereof at the place of production; the amount of the royalty payable thereon, if any, to whom payable and whether it is claimed that such royalty is exempt from taxation by law, and the facts on which such claim of exemption, if any, is based; and such other information pertaining thereto as the state auditor may require, and shall at the same time pay to the state auditor a tax equal to one-half of one per centum of gross value of asphalt and of ores bearing lead, zinc, jack, gold, silver and copper produced, less the royalty interest, and equal to three per centum of the gross value of the production of petroleum or other crude or mineral oil and of natural gas, less the royalty interest. The owner of any royalty interest shall pay to the state auditor the tax herein imposed upon such royalty interest within the time and in the manner provided by this act.

The tax hereby declared shall also attach to and is levied on what is known as the royalty interest except such royalty interest of the State of Oklahoma or such royalty interests as are exempted from taxation under the laws of the United States and the amount of the tax on the royalty interest shall be a lien on such interest.

The state auditor shall have power to require any such person, firm, corporation or association engaged in mining or the production of such asphalt, mineral ores aforesaid, petroleum or other crude oil or other mineral oil and natural gas or owner of any royalty interest therein to furnish any additional information by him deemed to be necessary for the purpose of correctly computing the amount of said tax and to examine the books, records and files of such person, firm, corporation or association and shall have power to examine witnesses, and if any witness shall fail or refuse to appear and testify at the summons or requests of the state auditor, said state auditor shall certify the facts and the name of the witness so failing and refusing to appear and testify or to produce any book, record or file to the

GROSS PRODUCTION TAX

district court of this State having jurisdiction of the party, and said court shall thereupon issue a summons to said party to appear and give such evidence and produce such books, records and files as may be required and upon failing to do so, the offending party shall be punished as provided by law in cases of contempt.

The state auditor shall have power to ascertain and determine whether or not any return herein required is a true and correct return of the gross products and of the value thereof of such person, firm, corporation or association engaged in the mining or production of asphalt and ores bearing minerals aforesaid and of petroleum or other crude oil or mineral oil and of natural gas, and if any person, firm, corporation or association has made an untrue or incorrect return of the gross production or value thereof, as hereinbefore required, or has failed or refused to make such return, the said state auditor shall ascertain the correct amount of either, and compute said tax.

The payment of the taxes imposed shall be in full and in lieu of all taxes by the state, counties, cities, towns, townships, school districts and other municipalities upon any property rights attached to or inherent in the right to said minerals, upon leases for the mining of asphalt and ores bearing lead, zinc, iron, gold, silver or copper or for petroleum or other crude oil or other mineral oil or for natural gas upon the mining rights and privileges for the minerals aforesaid belonging or appertaining to land, upon the machinery, appliances and equipment used in and around any well producing petroleum or other crude or mineral oil or natural gas, or any mine producing asphalt, or any of the mineral ores aforesaid and actually used in the operation of such well or mine; and also upon the oil, gas, asphalt or ores bearing minerals hereinbefore mentioned during the tax year in which the same is produced, and upon any investment in any of the leases, rights, privileges, minerals or property hereinbefore in this paragraph mentioned or described; but any interest in the land other than that herein enumerated, and oil in storage, asphalt, and ores bearing the minerals hereinbefore named, mined, produced and on hand at the date as of which property is assessed for general and ad valorem taxation for any subsequent tax year shall be assessed and taxed as other property within the taxing district in which such property is situated at the time.

The state board of equalization, upon its own initiative, may, and upon complaint of any person who claims that he is taxed too great a rate hereunder, shall take testimony to determine whether the taxes herein imposed are greater, or less than the general ad valorem tax for all purposes would be on the property of such producer subject to taxation in the district or districts where the same is situated, including the value of oil, gas, or mineral lease, or of the mining or mineral rights, the machinery, equipment or appliances used in the actual operation of in and around any such well or mine, the value of the oil, gas, asphalt or any of the said mineral

OIL AND GAS

ores produced and any other element of taxable value in lieu of which the tax herein is levied. The said board shall have power and it shall be its duty to raise or lower the rates herein imposed to conform thereto. An appeal may be had from the decision of the state board of equalization thereon, by any person aggrieved, to the Supreme Court, in like manner and with like effect as provided by law in other appeals from said board to said court; provided, that after such tax has been collected and distributed, or paid without protest, no complaint with reference to rate thereof shall be heard or considered.

Sec. 1, Ch. 39, S. L. 1916.

676. Delinquent tax—collection. When any tax provided for in this act shall become delinquent as provided in Section 7463, Revised Laws, 1910, the state auditor shall issue his warrant directed to the sheriff of any county wherein the same or any part thereof accrued, for the collection of the amount of said tax, interest and penalty, and the sheriff to whom said warrant shall be directed shall proceed to levy upon the property, assets and effects of the person, firm, association or corporation against whom said tax is assessed, and to sell the same and to make return thereof as upon execution. Such tax, interest and penalty shall constitute and remain a lien upon the property, assets and effects of such person, firm association or corporation until paid, and may be recovered at the suit of the State in any court of competent jurisdiction of the county where any such property, assets and effects are located.

Sec. 2, Ch. 39 S. L. 1916.

677. Purchasers' reports — enforcement of regulations. It shall be the duty of every purchaser of petroleum or other crude oil or mineral oil or of natural gas from producers thereof within the State, within thirty days after the expiration of the quarter-annual period expiring respectively on the last day of June, September, December and March of each year, to file with the state auditor a statement under oath on a form prescribed by him, showing, the name and address of each producer from whom such oil and gas was purchased during the quarter-annual period last expiring together with the price therefor and such other information as the state auditor may require: Provided, that the state auditor may require such purchaser, hereinbefore named, to keep for his inspection separate books, records and files in this State. Any purchaser of such products heretofore named in this section, or any person, firm, association or corporation engaged in mining or production within this State of asphalt, or of ores bearing lead, zinc, jack, gold, silver, copper or petroleum or crude oil or other mineral oil or of natural gas, who shall fail to file any sworn statement required by any of the provisions of this act in the manner and in the time prescribed herein shall be liable to a penalty of one hundred dollars for each day he shall so fail or refuse to file such statement or comply with said provisions, which shall be a lien upon all the

GROSS PRODUCTION TAX

property and assets of such purchaser or producer located in this State and may be recovered at the suit of the State in any court of competent jurisdiction.

Sec. 3, Ch. 39 S. L. 1916.

678. Reports of shippers. It shall be the duty of every railroad company, pipe line or transportation company to furnish to the state auditor, through the Corporation Commission any and all data relative to the shipment of crude oil that may be required to properly enforce the provisions of this act. The failure of any railroad company, pipe line or transportation company to comply with the provisions of this section shall make such company liable to a penalty of one hundred dollars for each day it shall fail to furnish such statement or comply with the provisions of this act.

Sec. 4, Ch. 39 S. L. 1916.

679. Distribution and use of taxes. The gross production tax provided for in this act is hereby levied and collected for the following specific purposes, to-wit:

- (1) For current expenses of state government, two-thirds.
- (2) For and in aid of the common schools of the county from whence the oil or gas and other mineral is produced, one-sixth (five mills).
- (3) For and in aid of the construction of permanent roads and bridges of the county from whence the oil or gas and other mineral is produced, one-sixth (five mills).

It shall be the duty of the state auditor to pay two-thirds of all gross production taxes levied and collected under the provisions of this act to the state treasurer to be credited to the general revenue fund of the State, and applied to the current expenses of state government; and to pay one-third the sum collected from each county whence the oil or gas or asphalt or of ores bearing lead, zinc, jack, gold, silver or copper was produced to the county treasurer of such county; one-half the amount so paid to the county treasurer to be credited to the common school fund of the county in proportion to the school population of such county; the remaining one-half so paid to the county treasurer to be credited to a fund of such county known as the road and bridge fund: Provided, that should the rate of tax herein levied be raised or lowered by the state board of equalization, as authorized in Section 1 of this act, such increase or decrease shall be added to, or deducted from, that portion of the tax which is levied for the current expense of state government.

Sec. 5, Ch. 39, S. L. 1916.

Construing Section 4, Subdivision "A," Article 2, Chapter 107, S. L. 1915. See Board of Commissioners of Creek county v. Alexander, 159 Pac. 311.

680. Validity of provision. In case Section 5 of this act shall for any reason become ineffective, then at once shall the proceeds of all gross production tax collected under the provisions of this act be paid into the general revenue fund of the State and be ap-

OIL AND GAS

plied to the current expenses of the state government; any unexpended balance at the end of any fiscal year to be distributed as any other common school funds of the State.

Sec. 6, Ch. 39 S. L. 1916.

681. Act not retroactive. The passage and approval of this act shall not be held or construed as affecting any tax and the collection and distribution thereof under existing laws upon asphalt, oil, gas or any other mineral ores herein enumerated, produced prior to the date this act becomes effective. But all such taxes shall be collected and distributed under such existing laws as though this act had never been passed.

Sec. 7, Ch. 39 S. L. 1916.

682. Effect of invalid parts of act. The invalidity of any section, subdivision, paragraph, provision, sentence or clause of this act shall not in any manner effect the validity of the remaining portion thereof.

Sec. 8, Ch. 39 S. L. 1916.

The title of the Gross Production Tax Law, Ch. 39 Session Laws 1916, is as follows: "An act relating to the taxation of the gross production of asphalt, ores bearing lead, zinc, jack, gold, silver, and copper and of petroleum or other crude oil or mineral oil and of natural gas in lieu of any other method of taxing same and of certain property used in the production thereof, amending Sections 1, 2, 3, and 4, of Subdivision A, Article 2, Chapter 107, Session Laws of Oklahoma, 1915, entitled "An act to provide a direct and indirect system of taxation, Article 1, direct system of taxation—amendments, Article 2, Special Taxes—mining property and gross revenue tax, Article 3, validating the sections. * * *"

As to Power of State to Collect Gross Production Tax on Oil, see: In re Gross Production Tax of Wolverine Oil Co., 151 Pac. 362; Large Oil Co. v. Howard 163 Pac. 537.

As to Power of State to Collect Gross Production Tax on Segregated Land, see: In re Indian Territory Illuminating Oil Co. v. State, 43 Okla. 397; 142 Pac. 597; 242 U. S. 552.

ARTICLE VIII.

MISCELLANEOUS, LEASING STATE LANDS, ETC.

- See:
- 682. Ownership of riverbed mineral rights, oil and gas.
 - 684. Public lands—board of affairs may lease lands of public institutions.
 - 685. School land—commissioners of the land office—leases.
 - 686. Empowered to segregate.
 - 687. Term of lease.
 - 688. Provisions of lease.
 - 689. Rules governing leases.
 - 690. Lessee liable to surface owners.
 - 691. Fund—bonus—royalties.
 - 692. Act in conflict repealed.
 - 693. Lien on oil or gas well for labor or supplies.

683. Ownership of river bed mineral rights—oil and gas. Section 6639 of the revised laws, being a provision defining the rights of the owners of land abutting upon navigable waters, shall not be adopted or become a part of said revised laws under the provision of this act: Provided, further that this act shall not be construed to alter, change, impair, disparage, vest or divest any right or interest of the United States government, the State of Oklahoma, any of the Five Civilized Tribes of Indians or Nation, or any riparian, or abutting owner of any of the river beds, or streams of the State of Oklahoma, or to change any interest, or ownership of the sand, gravel,

LEASES

oil, gas, or other mineral substance, or product, which may now exist, or which may hereafter be discovered, in or under such river beds or streams.

Sec. 1, Ch. 75 S. L. 1913, amending Sec. 1, Ch. 39 S. L. 1910-11.

As to leasing portions of riverbeds for electric power plants, etc., reserving mineral rights, see Ch. 180 S. L. 1915.

684. Public lands—board of affairs may lease lands of public institutions. The state board of public affairs is hereby authorized to lease for drilling and development of oil and gas or both, any of the lands belonging to the State, on which are located penal or eleemosynary institutions, or are connected with or a part of the lands of such institutions. Such leasing to be made by public competition after not less than thirty days advertisement, as now provided by law for the leasing of other State or school lands for oil and gas purposes, and in such manner as said board may by rule prescribe. All such leasing must be on sealed bids and awarded to the highest responsible bidder, and for such period as said board of public affairs may determine: Provided, said board may reject any and all bids. The oil and gas interest in such land hereby authorized to be leased is to the extent and in the manner that a private owner of lands in fee, may in his own right, execute such lease or grant, and Provided further, that such lease before becoming effective or having validity, shall be approved by the governor of the State.

Sec. 1, Ch. 223, S. L. 1917.

685. School land—commissioners of the land office—leases. The commissioners of the land office are authorized to lease for oil and gas purposes any of the school or other lands owned by the State of Oklahoma, which such commissioners may deem valuable for oil or gas, for the term of five years and as long thereafter as oil or gas may be produced therefrom in paying quantities, upon such terms and conditions and in such quantities as the commissioners shall by rules and regulations prescribe. Each such lease shall provide for the delivery to the State of a royalty of not less than one-eighth part of the oil or gas produced from the leased premises or in lieu thereof the payment to the State of the market value of said royalty interest as the commissioners may elect. Such leasing shall be made by public competition after not less than thirty days' notice by publication in two newspapers authorized by law to publish legal notices, one of which newspapers shall be published at the state capital and the other in the county where the land is situated, such leasing shall be let by sealed bids and each lease awarded to the highest responsible bidder. Such oil and gas leases may be assigned only with the consent and approval of the commissioners of the land office: Provided, that the commissioners have the right to reject any and all bids.

Sec. 1, Ch. 253 S. L. 1917.

686. Empowered to segregate. The commissioners are empowered to segregate any of the school or public lands for mineral purposes which the commissioners may, by order entered of record,

OIL AND GAS

determine to be valuable for oil, gas or mineral purposes, and each agricultural, grazing or other lease of the surface rights or interest in any land so segregated shall reserve to the State, its lessees or grantees, the right to explore, drill and operate for oil or gas on such lands as well as the right to enter upon the said lands and enjoy the mining rights so reserved.

Sec. 2, Ch. 253 S. L. 1917.

687. Term of lease. All oil and gas leases executed by the commissioners of the land office shall be for a term of five years and as long thereafter as oil or gas may be produced in paying quantities: Provided, upon the forfeiture, or cancellation or surrender, or expiration of a lease by reason of its termination on account of the five years' limit, provided for in the "Enabling Act", or any other cause, the school land commissioners shall provide for the leasing of such land in the same way and in the same manner that the school land commissioners lease land which has never been leased: Provided, on such leases which are surrendered or which may expire or which have expired, the lessees or assigns shall have the value of the physical properties on such lease, which value shall be determined by a board of appraisers especially appointed by the school land commissioners for the appraising of physical property of leases: Provided, no physical property valuation shall be attached or considered in the making of a lease on a tract consisting of more than 640 acres. If no well shall be completed upon any leased premises within one year from the date of the lease, the lessee shall pay to the State of Oklahoma an annual rental in advance of such sum per acre as the commissioners shall prescribe in the lease, which payment shall operate to defer the completion of a well during the year for which such rental payment is made.

Sec. 3, Ch. 253 S. L. 1917.

688. Provisions of lease. All leases for oil and gas shall contain a provision to drill one well on each leased tract within one year from the date of such lease or on failure to complete such well to pay an annual rental per acre as hereinbefore provided. All such leases shall further provide that the lessee shall drill a sufficient number of wells upon the leased lands to offset all producing wells upon any adjoining or contiguous lands, and a further provision that the failure of the lessee to diligently and in good faith operate the leased premises for oil and gas to as full an extent as other lands are operated in the general oil and gas field where such leased land is located shall forfeit all rights of the lessee under each lease. Each lessee shall execute a bond to the State of Oklahoma with sureties to the approval of the commissioners and in such sum as the commissioners shall prescribe, conditioned for the faithful performance of the provisions of the lease and for the payment of all recoverable damages which such lessee may cause to the property, crops or rights of the surface lessee.

Each lease shall further provide that in the event the State shall at any time operate a refinery for the refining of crude petro-

LEASES

leum or the extraction of any of its products or by-products, the State shall have the preference right to purchase and take the production or output of any such oil or gas well at the prevailing market price thereof, upon the commissioners serving written notice upon the owners of any well, of the purpose and readiness of the State to take such production.

Sec. 4, Ch. 253 S. L. 1917.

689. Rules governing leases. The commissioners of the land office may adopt and promulgate appropriate rules and regulations for carrying into effect the provisions of this act, but no restrictions or prohibitions against any bidder or prospective bidder shall be made other than as provided in this act.

Sec. 5, Ch. 253 S. L. 1917.

690. Lessee liable to surface owner. The lessee, under any oil or gas lease executed by the commissioners of the land office shall be liable to the surface owner or lessee for all injury, damage or loss occurring to the surface interest, interest in such lands or to any building, crops or improvements, or other property, located upon or used in connection with said land

Sec. 6 Ch. 253 S. L. 1917.

691. Funds — bonuses — royalties. All funds arising from bonuses, royalties or rentals for oil and gas leases, shall be carried into and credited to the permanent funds for the use and purpose designated in the grant of such lands by congress to the State of Oklahoma and all such funds shall be kept, handled and used in like manner as other moneys belonging to said permanent funds.

Sec. 7, Ch. 253 S. L. 1917.

692. Acts in conflict repealed. All acts or parts of acts inconsistent herewith are hereby repealed.

Sec. 8, Ch. 253 S. L. 1917.

For prior laws, see Secs. 7195, 7203 R. L. 1910; Ch. 248 S. L. 1915, relating to release from record of mineral leases after forfeiture.

As to the Right of Lessor to Cancel Lease, see: *Brown et al. v. Wilson et al.*, 160 Pac. 94; *Shaffer v. Marks et al.* 241 Fed. 139.

Oil and gas lease—construction—forfeiture. Where an oil and gas lease was made, executed, and delivered for the consideration of \$1.00 in hand paid to lessor, and the covenants and agreements hereinafter contained on the part of the lessee, and leased and let to him a certain tract of land for a term of ten years and as long thereafter as oil and gas or either were produced therefrom by the lessee, he to yield to the lessor certain royalties from the oil and gas produced, and where the lessee agreed to complete a well on the premises within four months from the date thereof or pay at the rate of \$80 in advance for each three months such completion was delayed, HELD, that the \$1 supported the four months' period in which the lessee had to complete a well and supported no other stipulation in the lease; that the prospective royalties were the sole consideration for the execution of the lease on the part of the lessor; that the agreements on the part of the lessee to complete a well on the demised premises within four months or pay for delay conferred an option on the lessee to drill or pay; and that a failure to do either forfeited the lease at least at the option of the lessor, who thereafter was entitled to have the same judicially declared forfeited and canceled as a cloud upon his title. (*Brown et al. v. Wilson et al.*, 160 Pac. 94).

Oil and gas lease—provisions as to surrender. Where such lease reserves to the lessee and his assigns the right at any time after four months, and on the payment of \$1 and all payable obligations then due the lessor or his assigns, to surrender the lease, if not tested, for cancellation, HELD, that, as said lease, construed as a whole, confers on the lessee an option to complete a well within four months or pay for the delay and a further option to surrender at any time after four months, and thereby avoid doing both, it was voidable at the option of the lessor at any time after four months for lack of mutuality, in that it imposed no legal obligation on the lessee; that, as prospective royalties

OIL AND GAS

were the sole consideration for the execution of the lease on the part of the lessor, payment of which could be defeated by a surrender thereof by the lessee, the lease was nudum pactum; and that, as the same reserves to the lessee the right to surrender the lease at any time after four months before development, a corresponding right exists in the lessor to compel a surrender. (Id.)

Courts—federal courts—following state court decisions. The federal courts, in determining cases before them involving state laws and rights accruing under those laws, are guided by rules announced by the supreme court in *Kuhm v. Fairmount Coal Co.*, 215 U. S. 360, 30 Supt. Ct. 140, 54 L. Ed. 228. (*Shaffer v. Marks et al.*, 241 Fed. 139).

Courts—federal courts—following state court decisions—oil and gas lease—validity. In determining whether or not an Oklahoma oil and gas lease executed in 1912, reserving to the lessee the right to surrender said lease at any time upon the payment of \$1 to the lessor, was a valid or void contract, resort will be had to the decisions of the Oklahoma courts rendered prior to the date of said lease, and in the absence of any decision holding such leases void their validity will be determined from an examination of the general law on the subject. The opinions in *Superior Oil & Gas Co. v. Mehlin*, 25 Okla. 809, 108 Pac. 545, 138 Am. St. Rep. 942, decided in 1910, in *Kolachny v. Galbreath*, 26 Okla. 772, 110 Pac. 902, 38 L. R. A. (N. S.) 451, decided in 1910, and in *Frank Oil Co. v. Belleview Gas & Oil Co.*, 29 Okla. 719, 119 Pac. 260, 43 L. R. A. (N. S.) 487, decided in 1911, examined and found to fall far short of holding such leases void, but, upon the other hand treated such leases as valid, binding contracts, and not conferring upon or reserving to the lessor the right to decline to accept rentals for delay in drilling when properly tendered. (Id.)

Oil and gas lease—cancellation. Under the decision of the United States Circuit Court of Appeals for the Eighth Circuit in *Brewster v. Lanyon Zinz Co.*, 140. Fed. 897, 72 C. C. A. 213, decided in 1905, and the opinions of the Supreme Court of Oklahoma then handed down, an Oklahoma surrender clause oil and gas mining lease, executed in 1912 for a cash bonus of \$120, HELD a valid and enforceable contract, and, though the lessee had the right to surrender the lease at any time the lessor did not have the right to decline to accept rentals made in accordance with the terms of the lease and cancel the lease within the five-year term, it not appearing that there was any threatened drainage of the property, or any undue delay in development after becoming practicable from the standpoint of marketing facilities. (Id.)

Oil and gas lease—cash bonus. The cash bonus of \$120 supported each and every provision in said lease being an indivisible contract, the cash bonus not only supported the full term of the lease, but the option of the lessee to keep the lease alive by tendering delay rentals. (Id.)

Oil and gas lease—construction. The surrender clause oil and gas mining lease will be strictly construed in favor of the landowner, the party who is bound, and against the lessee, the party not bound, following *Kolachny v. Galbreath*. (Id.)

Courts—oil and gas lease—rights of lessee—federal courts. Whether an oil and gas lease confers upon the lessee a freehold estate, a chattel real, or an incorporeal hereditament is immaterial. An Oklahoma oil lessee acquires a vested right to enter and explore for oil and gas and appropriate the same according to the terms of the contract, and this vested right is as much entitled to the protection of a court of equity as a fee-simple estate in land, and in a proper case, irrespective of what remedy the estate courts afford, federal equity will apply its own remedy. (Id.)

Oil and gas lease—rental—forfeiture. A lessee in either an "unless" lease or an "or" surrender clause lease, who intentionally fails to make a delay or rental payment at the time and in the manner specified in the lease, cannot escape forfeiture of the lease by tendering payment out of time. But where it is his intention to make the stipulated payment in strict accordance with the terms of the lease, but his attempt to do so is abortive because of some accident or mistake, not the result of his wilful neglect or gross negligence, a court of equity will grant him relief as against the forfeiture asserted by the lessor because of such failure, where the lessor has not suffered by the delay and it would be inequitable to enforce the forfeiture. (Id.)

693. Lien on oil or gas well for labor or supplies. Any person, corporation or co-partnership who shall, under contract express or implied, with the owner of any leasehold for oil and gas purposes or the owner of any gas pipe line or oil pipe line, or with the trustee or agent of such owner perform labor or furnish material, machinery and oil well supplies used in the digging, drilling, torpedoing, completing, operating or repairing of any oil or gas well or who shall furnish any oil or gas well supplies or perform any labor in constructing or putting together any of the machinery used in drilling, torpedoing, operating, completing or repairing of any gas well, shall

PLEADING AND PRACTICE—FORMS

have a lien upon the whole of such leasehold or oil pipe line or gas pipe line, or lease for oil and gas purposes, the buildings and appurtenances, and upon the material and supplies so furnished and upon the oil or gas well for which they were furnished, and upon all the other oil or gas wells, fixtures and appliances used in the operating for oil and gas purposes upon the leasehold for which said material and supplies were furnished or labor performed. Such lien shall be preferred to all other liens or incumbrances which may attach to or upon said leasehold for gas and oil purposes and upon any oil or gas pipe line, or such oil and gas wells and the material and machinery so furnished and the leasehold for oil and gas purposes and the fixtures and appliances thereon subsequent to the commencement of or the furnishing or putting up of any such machinery or supplies.

Sec. 3865 R. L. 1910.

History. L. 1905, p. 323; effective March 15, 1905. Revision: All references made to oil and gas wells—the original section referring sometimes to oil and sometimes to gas.

See also Sections 3866 and 3867 R. L. 1910.

APPENDIX.

PLEADING AND PRACTICE—FORMS

1. Complaint—general.
2. Complaint against railway company.
3. Complaint against telegraph or telephone company.
4. Complaint against public utility.
5. Complaint against cotton gins.
6. Motion for new trial not required to give right to appeal from orders of Corporation Commission.
7. Information alleging violation of commission's order—general.
8. Information alleging violation of oil and gas conservation order.
9. Citation on information for violation of commission's order.
10. Subpoena.
11. Answer to contempt information.
12. Exceptions to order of the Corporation Commission assessing fine.
13. Notice of appeal to Supreme Court.
14. Application for supersedeas.
15. Application for supersedeas in the Supreme Court.
16. Application to certify facts and record to the Supreme Court.
17. Certificate to record on appeal to Supreme Court.
18. Application for cotton gin license.
19. Application to increase rates, or be relieved of service.
20. Application for certificate of convenience and necessity—telephone companies.
21. Application for permission to install vacuum pumps.
22. Application for permission to exercise the right of eminent domain—railroad company.
23. Application for permission to exercise the right of eminent domain—oil pipe line.
24. Application for consent to lease or purchase railroad properties.
25. Statements for domestic and foreign corporations.

INTRODUCTORY

Procedure before the Corporation Commission is informal. The commission has not prescribed rules of procedure or forms. It has been the object of the commission to make it as easy as possible for persons appearing before the commission to present their grievances or other matters at issue and to leave the commission free to expedite business. To those attorneys seeking advice as to what procedure to look to in preparing papers, the commission has suggested the pleadings and practice applicable to district courts of the State as a guide. All that is necessary in formal complaints is to get before the commission in a clear, concise and orderly way,

PLEADING AND PRACTICE—FORMS

matters complained of and the evidence supporting the position taken by the persons complaining or complained against.

The following forms and suggestions may be helpful to those appearing before the Corporation Commission:

(Credit is given to Kleinschmidt & Highley's Form Book for many of the annotations herewith and for other suggestions).

1. COMPLAINT—GENERAL
BEFORE THE CORPORATION COMMISSION OF OKLAHOMA.

.....
vs. Complaint, Cause No.
.....
Defendant.

The complainant says:

- 1. (Here insert name, occupation and address of complainant).
2. That the above named defendant is a.....company engaged in the business of.....within the State of Oklahoma, and that as a..... company, said defendant is subject to the provisions of the laws of the State of Oklahoma relating to such companies.
3. That (Here state grounds of complaint; insert fully, clearly and with reasonable certainty, the act or thing done or omitted to be done which complainant claims constitutes a cause of complaint).

Wherefore, complainant prays that the aforesaid defendant be required to answer the charges herein and after due hearing and investigation, an order be made commanding (here state specifically the relief which complainant asks), and for such other and further order as the commission may deem necessary and just.

.....
Complainant.

Dated at, Oklahoma, this....day of....., 19....
(See 25 Okla. 662, 107 Pac. 428; 26 Okla. 62, 107 Pac. 929; 30 L. R. A. (N. S.) 137; 27 Okla. 285, 111 Pac. 543; 31 Okla. 801, 123 Pac. 1017).

2. COMPLAINT AGAINST RAILWAY COMPANY

As in preceding form, substituting for paragraph 2, the following:

(2). That the above named rail.... company is a common carrier engaged in the transportation of persons and property by railroad between points in the State of Oklahoma, and that as such is subject to the laws of the State of Oklahoma relating to common carriers.

(See Const. Article IX, Sec. 18).

3. COMPLAINT AGAINST TELEGRAPH OR TELEPHONE COMPANY

As in preceding form, substituting for paragraph 2, the following:

(2). That the above named tele..... company is engaged in the transmission of messages between points within the State of Oklahoma, and that as such company is subject to the provisions of the laws of the State of Oklahoma relating to transmission companies.

(See Const. Article IX, Sec. 18).

4. COMPLAINT AGAINST PUBLIC UTILITY

As in preceding form, substituting for paragraph 2, the following:

(2). That the above named (here insert gas, electric, water, etc.) company is a public utility, engaged in supplying (here insert gas, electricity, water, etc) at the town, city, etc. in the State of Oklahoma, and that as such is subject to the law of the State of Oklahoma relating to public utilities.

(See Chapter 93, Session Laws 1913).

5. COMPLAINT AGAINST COTTON GINS

Form as above, making appropriate substitutions.

(See Okl. 106, S. L. 1915)

6. MOTION FOR NEW TRIAL NOT REQUIRED TO GIVE RIGHT TO APPEAL FROM ORDERS OF CORPORATION COMMISSION.

(See Okla. 192, 99 Pac. 1081; 25 Okla. 662, 107 Pac. 428; 38 Okla. 716, 131 Pac. 874)

PLEADING AND PRACTICE—FORMS

ORDER—GENERAL.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA.

AFFIDAVIT FOR CITATION.

In re information of Cause No.
The Company, Alleging Violation of
Defendant, Order No.

The informant (here state full name of informant) states:

- 1. That (here insert occupation and address of informant).
2. That the above named defendant is a company, engaged
in the business of within the State of Oklahoma, and that as
a company said defendant is subject to the provisions of the
laws of the State of Oklahoma relating to such companies.
3. That said defendant has violated Commission's Order No. in that
(here insert fully, clearly and with reasonable certainty, the act or thing done
or omitted to be done which informant alleges constitutes a violation of Com-
mission's Order, with reference, where practicable, to the provision or section
of the order alleged to have been violated).

Wherefore, informant prays that the aforesaid defendant company be cited
under the provisions of Article II, Ch. 14, R. L. 1910 (Sections 28-36, Corpora-
tion Commission Laws, 1917) to answer the charges herein and that after due
hearing and investigation an order be made assessing against it such penalty
as the facts may warrant and in the judgment of the commission is proper,
and for such other and further order as the commission may deem necessary
and just in the premises.

Informant.

State of Oklahoma, County of Oklahoma, ss:

..... of lawful age, being first duly sworn on oath states:
That he is the informant above named; that he has read the foregoing informa-
tion and is familiar with the contents thereof, and that the facts therein stated
are true.

Subscribed and sworn to before me this...day of....., 19....

(Title of officer administering oath).

(Section 19, Article IX, Const., R. L. 1910, Sec. 1193; Corporation Commission
Laws, 1917, Sec. 28).

(Must be verified. 35 Okla. 532, 130 Pac. 940. Amendment, 26 Okla. 62, 107
Pac. 929, 30 L. R. A. (N. S.) 137. See also 26 Okla. 389, 109 Pac. 301; 26 Okla.
764, 110 Pac. 759; 31 Okla. 476, 122, Pac. 231; 31 Okla. 479, 122 Pac. 232. But
answering the information without moving to quash or set it aside waives veri-
fication. See 35 Okla. 532, 535, 130 Pac. 940).

8. INFORMATION ALLEGING VIOLATION OF OIL AND GAS
CONSERVATION ORDER.

As in preceding form, substituting for paragraph 2, the following:

(2). That the above named defendant is engaged in the business of drilling
for and producing crude oil and natural gas on the..... of Section
township range county, in the State of Okla-
homa, and that as a producer of crude oil and natural gas said defendant is
subject to the provisions of the laws of the State of Oklahoma relating thereto.

(See Chapters 25 and 197, Session Laws 1915; Chapter 207 Session Laws
1917).

PLEADING AND PRACTICE—FORMS

9. CITATION ON INFORMATION FOR VIOLATION OF COMMISSION'S ORDER.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA.

CAUSE No.....

CITATION No.....

In re information of vs.

Violation of Order No.....

TO THE.....Company:

You are hereby notified that information has been filed in the office of the Corporation Commission of Oklahoma by.....of.....Oklahoma, alleging that you have violated Commission's Order No.....in that: (Here insert substance of informant's allegations, setting forth briefly but clearly the facts alleged constituting violation of Commission's order).

Copy of information, duly verified by the said.....is hereto attached.

You are therefore notified to appear before the Corporation Commission of Oklahoma in its office in the State Capitol, Oklahoma City, Oklahoma, at 10 o'clock a. m. on the.....day of....., 19....., and show cause why fine should not be assessed against you as is provided by the Constitution and laws of the State of Oklahoma.

In witness whereof we have hereunto set our hands and caused to be affixed the seal of the said Commission on this the...day of....., 191....

CORPORATION COMMISSION.

Chairman.

Commissioner.

Commissioner.

ATTEST

Secretary.

(SEAL)

(Sec. 19, Article IX, Constitution; Sec. 1193, R. L. 1910; Section 28 Corporation Commission Laws 1917.

10. SUBPOENA.

THE CORPORATION COMMISSION OF OKLAHOMA.

To the (Marshal of the Corporation Commission of Oklahoma or Sheriff ofCounty, Oklahoma), Greeting:

You are hereby commanded to forthwith summons..... to personally appear before the Corporation Commission of Oklahoma at a session thereof to be holden at the..... in the city of..... in said State at 10 o'clock a. m. on the.....day of....., 19....., then and there to be examined as a witness in a certain matter of controversy pending before such Commission, wherein..... petitioner and..... is respondent, and that..... being with.....

and herein the said witness shall not fail at..... of incurring the penalties prescribed by the laws of said State. Of this writ you shall make due return to said Commission at.....

I, WITNESSE WHEREOF, (Chairman, Commissioner or Secretary) of said Commission, do hereby set my hand and affixed the official seal this...day of....., 19.....

(SEAL)

(Chairman, Commissioner or Secretary).

PLEADING AND PRACTICE—FORMS

I hereby certify that the foregoing is a true copy of the original subpoena.
Dated this...day of....., 19.....

(Marshal or Sheriff ofCounty, Oklahoma).

Served the within writ upon.....
by reading the same to and within their hearing, and upon.....
by leaving a true and certified copy of the same at their last and usual place of
residence, this.....day of....., 19.....

(Marshal or Sheriff ofCounty, Oklahoma).

11. ANSWER TO CONTEMPT INFORMATION.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA.

CAUSE No..... CITATION No.....

In re information of..... }
vs. Company } Alleging Violation of
..... Defendant. } Order No.....

Comes now.....defendant above named and for answer to the
information herein (here set up general denial, separate defences, special plea,
etc., as the case may be).

.....
Defendant.

(Sec. 1194, R. L. 1910; Sec. 29 Corporation Commission Laws, 1917).

12. EXCEPTIONS TO ORDER OF THE CORPORATION COMMISSION ASSESSING FINE.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA.

CAUSE No..... CITATION No.....

In re information of..... }
vs. Defendant. } ORDER No.....

EXCEPTIONS OF DEFENDANT.

Comes now said defendant, and files herewith its
exceptions to Order No..... of the Corporation Commission, entered herein
on the.....day of....., 19..... by which said defendant was
adjudged guilty of violating Order No..... of the Corporation Commission
of Oklahoma and for grounds thereof states: (Here set up specific grounds for
exceptions—want of jurisdiction, insufficient facts to confer jurisdiction, insuffi-
cient evidence to warrant finding the defendant guilty, unreasonableness of
order, etc).

.....
Defendant.

.....
Attorney for said Defendant.

Sec. 1194, R. L. 1910; Sec. 29, Corporation Commission Laws, 1917.

(See 31 Okla. 476, 122 Pac. 231; 26 Okla. 166, 109 Pac. 218; 7 Okla. Cr. 351,
123 Pac. 1035; 33 Okla. 378, 125 Pac. 1103; 29 Okla. 201, 115 Pac. 769).

13. NOTICE OF APPEAL TO SUPREME COURT.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA.

CAUSE No..... ORDER No.....

In re information of.....
vs.
..... Company,
Defendant.

PLEADING AND PRACTICE—FORMS

NOTICE OF APPEAL

Comes now said defendant.....and files herewith notice of intention to appeal to the Supreme Court of Oklahoma from Order No..... of the Corporation Commission rendered herein on the.....day of..... 19....., assessing fine of.....Dollars (\$.....) against defendant; and requests that this notice be entered on the trial docket of the Corporation Commission.

Dated this.....day of....., 19.....

..... Defendant.
..... Attorney for Defendant.

14. APPLICATION FOR SUPERSEDEAS.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA.

CAUSE No..... ORDER No.....

..... Complainants.
vs
..... Defendant.

APPLICATION FOR SUPERSEDEAS BOND.

Comes now the defendant and respectfully requests the Corporation Commission to fix the date and the amount of a suspending or supersedeas bond to suspend the operation of Order No..... of the Commission made herein on the.....day of..... 19..... pending disposition of the appeal therefrom by the Supreme Court of Oklahoma.

..... Attorney for Defendant.

(Sec. 40 Okla. 417, 138 Pac. 1033; 45 Okla. 115, 144 Pac. 1021).

15. APPLICATION FOR SUPERSEDEAS IN THE SUPREME COURT.

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA.

..... Appellant,
vs,
No.....
State of Oklahoma, and
..... Appellees.

APPLICATION FOR SUPERSEDEAS.

Comes now said applicant and respectfully represents and shows to this Honorable Court as follows:

That this is an appeal from Order No.....of the Corporation Commission entered on the.....day of....., 19....., which order requires this appellant to there set up substance of order); that on the.....day of....., 19....., appellees applied to said Corporation Commission for an order fixing the amount and terms of the bond to suspend the operation of said order pending on appeal in this court, which said application was denied and supersedeas refused. Thereafter and on the.....day of....., 19....., petition in error with statement of facts duly certified by the Chairman of the Corporation Commission attached was lodged in this court.

Appellant further shows that it desires in good faith to secure a review of said order by this court; that appellant contends as shown by the petition in error which is hereby referred to and made a part hereof, that there set forth the objections to said order and reasons which appellant believes entitles it to supersedeas.

Appellant further shows that the granting of such supersedeas will not work a hard hip on the public but will simply operate to preserve the present status of the situation.

Wherefore appellant asks that this court fix the amount and terms of a suspending bond to stay the operation of said Order No..... pending the final determination of the appeal by this court.

..... Attorney for Appellant.

PLEADING AND PRACTICE—FORMS

TO THE ATTORNEY GENERAL OF THE STATE OF OKLAHOMA, AND TO THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA:

Please take notice that the foregoing application for supersedeas will be presented to the Supreme Court of the State of Oklahoma on the...day of....., 19....., or as soon thereafter as counsel can be heard.

..... Attorney for Appellant. Service of foregoing notice and application and receipt of a copy thereof is hereby acknowledged this...day of..... 19.....

..... Attorney General of the State of Oklahoma. Corporation Commission of Oklahoma.

(Parties designated as "appellant" and "appellee" in the Supreme Court. Attorney General appears for appellees where state is party to suit. See Sec. 20, Article IX, Constitution; 26 Okla. 761, 110 Pac. 651; 40 Okla. 417, 138 Pac. 1033).

16. APPLICATION TO CERTIFY FACTS AND RECORD TO THE SUPREME COURT.

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA.

CAUSE No..... ORDER No.....

....., Complainants. vs. Defendants.

APPLICATION TO CERTIFY FACTS AND RECORD TO THE SUPREME COURT

To the Honorable Chairman of the Corporation Commission of Oklahoma:

Comes now the defendant and respectfully represents and shows that on the...day of....., 19....., there was entered herein Order No..... requiring the defendant (here state substance of order); that defendant desires to appeal from said order to the Supreme Court of Oklahoma, as provided by law and it therefore respectfully requests that the chairman of this Commission certify to the Supreme Court of this state, under the seal of the Commission, and transmit to the clerk of said court, to be filed with the record in this case, all of the facts upon which said order is based, together with all evidence introduced before or considered by the Commission in the hearing of this cause and in the making of said order, including a written statement of the reasons upon which the action of the Commission in making said order is based, together with a copy of said order, a copy of the petition or complaint, a copy of the answer of the defendant and a copy of the motion for a new trial.

Dated this...day of....., 19....., Attorney for Defendant.

(Sec. 22, Art. IX, Const.) (See 23 Okla. 192, 99 Pac. 1081; 47 Okla. 645, 150 Pac. 108).

17. CERTIFICATE TO RECORD ON APPEAL TO SUPREME COURT.

State of Oklahoma, } County of Oklahoma, } ss.

I,, Chairman of the Corporation Commission, do hereby certify that the above and foregoing is a full, true, and complete transcript of the record made before the Commission in Cause No. in which Order No..... was promulgated; and I further certify that the said record contains all of the pleadings, evidence taken and introduced, offered or considered by the Commission, and objections thereto, all motions, exceptions, rulings and orders of the Commission, made in said cause, and all of the facts upon which said Order No..... was based, together with a written statement of the reasons upon which said order was based; and that the same is a full, true, correct and complete transcript of the record in said cause.

Given under my hand and the seal of the Corporation Commission of the State of Oklahoma, this the...day of....., 19.....

..... Chairman. Attest: Secretary. (SEAL)

(Sec. 22, Art. IX, Const.) (See 23 Okla. 224, 100 Pac. 22; 24 Okla. 370, 103 Pac. 617; 24 L. R. A. (N. S.) 393; 23 Okla. 192, 99 Pac. 1081; 31 Okla. 367, 121 Pac. 612).

PLEADING AND PRACTICE—FORMS

18. APPLICATION FOR COTTON GIN LICENSE.

Printed forms may be had by addressing letter to the Corporation Commission, State Capitol, Oklahoma City, Oklahoma.
(See Ch. 176, S. L. 1915).

19. APPLICATION TO INCREASE RATES, OR BE RELIEVED OF SERVICE. BEFORE THE CORPORATION COMMISSION OF OKLAHOMA.

In re application of..... }
for permission to there state general relief } CAUSE No.....
asked for) at the town of....., Oklahoma. }

APPLICATION.

Comes now.....company, applicant herein, and represents and states to the Commission (here set forth clearly reasons for relief).

Wherefore applicant prays that (set up specific relief asked for).

Applicant.

Dated at..... this.....day of....., 19.....

(See Ch. 93, S. L. 1913; Corporation Commission Laws, 1917, Secs. 326-330).

20. APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY—TELEPHONE COMPANIES.

Above form applicable, making proper substitutions.

(See Ch. 279, S. L. 1917; Corporation Commission Laws 1917, Secs. 317-320).

21. APPLICATION FOR PERMISSION TO INSTALL VACUUM PUMPS. BEFORE THE CORPORATION COMMISSION OF OKLAHOMA.

In the Matter of the Application of the.....
Company for permission to install Vacuum Pumps
upon (description of land).

APPLICATION FOR PERMISSION TO INSTALL VACUUM PUMPS.

Comes now the.....Company, a corporation organized and existing under and by virtue of the laws of the State of..... and alleges and states:

1. That it owns oil and gas leases upon the lands described in the caption hereof, and that it is necessary to install vacuum pumps upon the same in order to prevent the waste of that valuable product known as casing-head gas, and in order to utilize said product by making therefrom gasoline; that upon many of the lands adjoining those above described vacuum pumps are either now in operation or are in process of construction.

2. That most of the wells on the above described lands are old wells; that they produce but small quantities of oil; that by reason of their age the casing-head gas produced is rich in gasoline and is a valuable product; and that the only way to save and utilize said casing-head gas and to prevent waste is to install vacuum pumps.

3. That if it is not allowed to install these vacuum pumps, the above described lands on which it holds leases will be drained by adjacent owners of both casing-head gas and oil; and that it and its royalty owners, will thereby suffer irreparable injury.

4. That the properties upon which it desires to place vacuum pumps, the name of well, thereon, and the total average daily production, therefrom are as follows: (See caption).

5. That the names of adjacent producing lease owners of the above described land, their last known postoffice addresses, and the total number of wells upon each of their properties, and the total estimated production of each lease, are as follows: (Set out names of owners, description of land, number of wells, and production of each).

6. That a map showing all the above described lands and leases, with company's properties marked thereon, is hereto attached and is a part of this application.

7. That this applicant has given notice by registered mail to each of the owners at their last known address, stating that this matter will be heard before the Corporation Commission on the.....day of....., 19....., at....., Oklahoma, on or as soon thereafter as same can be heard; that said

PLEADING AND PRACTICE—FORMS

notices were deposited in the postoffice at, Oklahoma, with postage thereon fully prepaid, on the....day of....., 19....; a copy of said notice being hereto attached and marked Exhibit "B."

Wherefore, your petitioner prays that it be allowed to install said vacuum pumps on all its properties herein described.

Dated this....day of....., 19....

.....Company,
By.....Its Attorney,
(Verification).

NOTICE.

(Caption).

Please take notice that the.....Company, a corporation on the....day of....., 19...., at 10 o'clock a. m. or as soon thereafter as said Commission may hear the same, under and pursuant to Order No. 1299 of the Corporation Commission will present its petition and application in the above entitled matter to the Corporation Commission of the State of Oklahoma for permission to install vacuum pumps upon the leases of said company on the above described premises.

Dated this....day of....., 19....

.....Company,
By.....

(See Ch. 198, S. L. 1913; Chs. 25, 197, S. L. 1915; Ch. 207, S. L. 1917).

NOTE: Blanks for notice of intention to drill wells, well reports, plugging records, may be received by writing to the Oil and Gas Department, Corporation Commission, State Capitol, Oklahoma City, Oklahoma.

22. APPLICATION FOR PERMISSION TO EXERCISE THE RIGHT OF EMINENT DOMAIN—RAILROAD COMPANY.

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA.

In the Matter of the Application of..... }
Company, for permission to exercise the power } CAUSE No.....
of eminent domain in the State of Oklahoma. }

APPLICATION.

Comes now the.....Company, a corporation, duly incorporated and organized under the laws of the State of....., and respectfully states to the Corporation Commission the following facts, to-wit:

1. That it has complied with the laws of the State of Oklahoma for permission to do business in this State as a foreign corporation, by having filed with the Secretary of State a certified copy of its articles of incorporation and paid the fees required by the statute for such permission and for certificate authorizing it to do business in this State.

2. That it has filed in the office of the Corporation Commission a list of its stockholders, officers and directors, with the residence and postoffice address of and the amount of stock held by each, and has designated....., of Oklahoma City, Oklahoma, as its agent upon whom service of summons or legal notice may be had.

3. That it has filed with the Secretary of State a certified copy of a resolution of its Board of Directors, which has been entered upon the records of the proceedings of said board of directors as provided by Section 1398, Revised Laws of Oklahoma, 1910, by which resolution the route of a proposed extension and construction of a line of railway by this company in the State of Oklahoma is designated; that said resolution so filed with the secretary of State is duly certified by the president and secretary of this company; and that a certified copy of said resolution is attached hereto and marked Exhibit "A" and has also been filed by this applicant with the Corporation Commission of the State of Oklahoma as is provided by said Section 1398 of the Revised Laws of Oklahoma, 1910.

4. That this applicant the.....Railway Company finds it necessary to the construction of its said line of railway in the State of Oklahoma to exercise the power of eminent domain to acquire right of way, station grounds and any and all other real estate necessary for the construction and maintenance of its said line of railway in the State of Oklahoma.

5. That this applicant, the.....Railway Company, agrees to comply with such limitations and restrictions as may be prescribed by the Corporation Commission and to file with the Commission its written acceptance of such requirements.

PLEADING AND PRACTICE—FORMS

APPLICATION.

Come now the.....Railroad Company, a corporation duly organized and existing under and by virtue of the laws of the State of..... and the.....Railroad Company, a corporation duly organized and existing under and by virtue of the laws of the State of..... owning and operating lines of railway in the State of Oklahoma, and hereby submit the following facts to the Corporation Commission of the State of Oklahoma and hereby petition the Commission to approve a certain lease between the..... Railroad Company and the.....Railroad Company, to-wit:

1. The.....Railroad Company shows to the Corporation Commission that it is a corporation duly and regularly organized and existing under and by virtue of the laws of the State of Oklahoma and as such is the owner of a railroad and appurtenances extending there set forth description of line of railway) and that said line of railway is in no wise a parallel and competing line with the line of the.....Railroad Company in the State of Oklahoma.

2. The.....Railroad Company shows to the Corporation Commission that it is a corporation duly and regularly organized and existing under and by virtue of the laws of the State of..... owning lines of railway in the State of Oklahoma, one of which said lines connects with the line of the.....Railroad Company at..... County, Oklahoma, thereby forming with said latter named railroad a continuous and connecting line of railroad in the State of Oklahoma but in no wise parallel or competing.

3. Both of said companies allege and represent that it is for the best interest of their respective lines of railroad as above set forth and for the best interest of the communities served by the.....Railroad Company for said.....Railroad Company to lease its railroad property and franchises in the State of Oklahoma to the.....Railroad Company.

4. Both of said companies desire to execute such lease, which proposed lease is hereto attached, marked Exhibit "A" and is referred to and made a part of this application. Both of said companies, the.....Railroad Company, and the.....Railroad Company hereby request the Corporation Commission of the State of Oklahoma to give its consent in writing to the.....Railroad Company to lease its property as above described to the.....Railroad Company, and further to give its consent to the option granted in said lease to the..... Railroad Company to purchase the property and franchises of the..... Railroad Company as contained and set forth specifically in said lease and to approve and confirm said proposed lease and authorize its execution by said companies respectfully.

Wherefore, the consent of the Corporation Commission is requested for the approval of said lease and the option to purchase therein.

Respectfully submitted,

.....
Attorney for.....Railroad Co.

.....
Attorney for.....Railroad Co.

(Section 9, Article IX, Constitution as amended August 5, 1913. See page 119, Session Laws 1916).
(Sec. 71 Corporation Commission Laws 1917).

25. STATEMENTS FOR DOMESTIC AND FOREIGN CORPORATIONS.

Blanks for the above may be obtained by writing the Corporation Commission, State Capitol, Oklahoma City, Oklahoma.

(See Sec. 43, Article IX, Constitution; Sec. 7541, 7542 R. L. 1910; Chap. 144, Session Laws 1917; Sections 369-384, Corporation Commission Laws 1917).

(See 41 Okla. 643, 139 Pac. 248).

NOTE: All laws and statutes cited herein may be found in Corporation Commission Laws, 1917 (this book).

APPENDIX B

TWO-CENT PASSENGER FARE ENJOINED

The two-cent passenger fare and present freight rates of the State were enjoined by Judge F. A. Youmans, in the District Court of the United States, for the Western District of Oklahoma, on the 15th day of March, 1918, in the following cases: Missouri, Kansas & Texas Railway Company and Chas. E. Schaff, Receiver, Plaintiffs, v. J. E. Love et al., Defendants, No. 471; The Atchison, Topeka & Santa Fe Railway Company, plaintiff, v. J. E. Love et al., Defendants, No. 472; Gulf, Colorado & Santa Fe Railway Company, Plaintiff, v. J. E. Love, et al., Defendants, No. 473; Chicago, Rock Island & Pacific Railway Company, and Jacob M. Dickinson, Receiver, Plaintiffs, v. J. E. Love et al., Defendants, No. 566; St. Louis & San Francisco Railroad Company and James W. Lusk, W. C. Nixon and W. B. Biddle, Receivers, Plaintiffs, v. J. E. Love et al., Defendants, No. 567.

The material parts of the decree in the Frisco case (similar decrees were entered in the other cases) are as follows:

FINAL DECREE

* * * * *

"IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows, to-wit:

* * * * *

FIRST.

"Section 37 of Article IX of the Constitution of the State of Oklahoma, and Orders Nos. 9, 11, 26, 45, 55, 58, 63, 64, 99, 115, 117, 176, 202, 208, 209, 382, 437, 502, 503, 509, 515, 516, 655, 666, 518, 519, 590, 667, 721, 722, 857, 891, 904, 923, 938, 975, 976, 997, and 1092 of the Corporation Commission of the State of Oklahoma, and each of them, are hereby declared and adjudged to be unconstitutional, confiscatory and void.

* * * * *

THIRD.

"The provisions of Order No. 982 of the Corporation Commission of the State of Oklahoma, in so far as the same deny the right of plaintiffs to increase their rates over the rates prescribed by said section 37 of article IX of the Constitution of the State of Oklahoma, and over the rates prescribed by the various orders of the Corporation Commission hereinbefore referred to, without consent of said Corporation Commission, are hereby declared to be unconstitutional, confiscatory and void, and the said defendants, and each of them, are hereby perpetually enjoined and restrained from enforcing or attempting to enforce said provisions of said Order No. 982 of the Corporation Commission against these plaintiffs, or either of them.

* * * * *

SEVENTH.

"Jurisdiction, however, is retained of this case to hear and determine any application on the part of the defendants or their successors in office, if conditions change in their judgment, as to warrant the putting into effect of passenger and freight rate herein enjoined."

INDEX

NOTE: Table of cases cited in this book is given on pages XXXVI-XLVI, inclusive, and numbers given therein refer to pages of this book. Name or style of the case is always given regardless of whether the case is cited by name or merely by reference to the Reporter where found.

INDEX TO SECTIONS

A

ACTIONS—	Section
Against foreign corporations—Venue of	370
Corporation, collateral attack	392
Corporation, collateral attack, see also Corporation Commission. Corporation, see Corporations.	
Foreign corporations	488
Foreign corporations, see also Corporation Commission. Foreign corporations, see also that Title.....	466, 474
AGE—Of Corporation Commissioners.....	2
AGENT'S NEGLIGENCE OF DUTY—See Carriers, Railroads.....	217
AGENT—Service of process on.....	370
ANIMALS IN TRANSIT—See Carriers, Railroads.	
ANNUAL REPORTS	9
ANTI-TRUST LAWS—See Monopolies, Anti-Trust Laws.	
ANTI-TRUST—Violation, see Monopolies.	
APPEAL—See Corporation Commission, this title. See also Cotton Gins, 355; see also Public Utilities, 330.	
ARBITRATION AND CONCILIATION—By Corporation Commission....	20
ARBITRATION—See also Corporation Commission	20
ATTORNEY GENERAL—See also Corporation Commission. Corporation Commission, proceedings before, see Corporation Com... Duties in reference to trusts and monopolies, see Monopolies.	36

B

BELLS AND WHISTLES—See Carriers, Railroads.....	225
BILL OF LADING—See Carriers, of Property.....	120-126
BLACKLISTING—See Corporations, Employees.	
BONE DRY LAW—See Railroads	290
BOOKS—See also Penalty for Refusing Examination of Books.	
BRIDGES—Bonds for those used jointly by public service corporations and public	341
Joint use of by public service corporations and public authorized, 339, Public Service Corporations—Joint construction with public author- ized	339, 341
Joint use of	339, 341
Toll	340
Use of highway and stream by public service corporations.....	339, 341
BY-LAWS—See Corporations.	

C

CAMPAIGN CONTRIBUTIONS—Corporations prohibited	509
CARRIAGE OF PERSONS—	
Carriage and delivery of luggage.....	100
Carriers for reward must use utmost care.....	92
Carrier may make rules	103
Carriers of persons without reward	91
Construction of contract	90
Ejection of persons	105
Fare, when payable	104

INDEX TO SECTIONS

CARRIAGE OF PERSONS—Cont'd.	Section
For reward, care necessary	92
Liability for luggage	99
Lien on luggage for fare	106
Luggage	97-106
Defined	98
Lien, when	106
Must carry luggage	97
Must not overload vehicle	94
Must provide seats for passengers	102
Must provide vehicles	101
Must use safe vehicles	93
Negro defined	149
Overloading	102
Passengers—accommodations	95
Construction of contract	90
Ejection, when	105
Luggage	97, 98
Seats for	102
Rate of speed	96
Rules, may make	103
Seats for passengers	102
Separate coach law	147-157
Act must be posted in depots and cars	154
Fines to go to school fund	157
Negro defined	149
Notice posted	154
Not applicable to peace officers—exceptions	153
Penalty for violation by company	151
Penalty for violation by passenger	152
Power of conductors	156
Prosecutions, how	156
Separate coach defined	150
Separate coaches	147
Conductor—powers	156
Defined	150
Ejection, damages, exempt	156
When	152, 156
Officers exempt	153
Required, when	147
Separate waiting rooms	148
Special trains	155
Violation of law, penalty	151, 152
Waiting rooms	148
Speed and delays	96
Treatment of passengers	95
Vehicle must be safe	93
Vehicle must not be overcrowded	94
Vehicles—Necessary	101
Without reward, care necessary	91

INDEX TO SECTIONS

CARRIAGE OF PROPERTY—	Section
Apportionment of freightage	131
Bill of lading defined	120
Bill of lading negotiable	121
Care required of carrier	110
Coal—bill of lading	140
To show weight of shipments	140
Connecting lines, liability	142
Consignee may weigh, when	143, 145, 146
Dispute, settlement of	146
Liability for shortage	141, 142
Liability for shrinkage	141
Refusal to weigh, penalty	144
Re-weighed on transfer	142
Shipments, bill to show weight	140
Shipment of	140-146
Shipment from outside of state	145
Shrinkage shall not exceed what amount	141
Weighed at destination	141
Weighing and reweighing	141
Weighing interstate shipments of coal	145
Weights—How determined	146
Consignee liable, when	129
Contract—Construction	90
Signature, assent, when	90
Definitions	109
Delays—Liable for	135
Delivery—Connecting carrier	137
Exoneration, when	116
Liability ceases	137, 138
Manner	113
Notice to consignee	115
Place of	114
To holder of bill	125
Directions—Must obey	111, 112
Effect of bill of lading	123
Exoneration from liability	89
Exoneration, when	116
Fare—Demand for	104
For reward, care necessary	110
Freight, etc., defined	109
Freightage—Acceptance of part of freight	132
Apportionment according to distance	132
Due, when	127
Extra carriage	134
Freight—See also Carriers, sub-title Railroads.	
Accepting freight beyond the usual route	137
Liability of carrier	107, 108
Liability for delays	135

INDEX TO SECTION 3

CARRIAGE OF PROPERTY—Freight—Cont'd.	Section
Proof of loss	138
Valuables must be declared	136
Liability—Where consignor does not accompany	107, 108
Limitation of, when	136
Lien for freightage	139
Manner of delivery	113
Must obey directions	111
Negotiable by delivery, when	122
Notice to consignee	115
Perishable property, sale of	118
Place of delivery	114
Sale of perishable property	118
Sale of unclaimed property	117
Sets of bills to consignor	124
Surrender of bill of lading may be required	126
Termination of liability	116
Unclaimed, sale	118
Valuables, limitation of liability	136
When directions are conflicting	112
Who liable for freightage	128
Without reward, care necessary	110
 CARRIER—See Carriers.	
CARRIERS—	
Acceptance of tickets, etc., assent	90
Agents not to collect excessive rates	83
Baggage, see sub-title, luggage, this title.	
Bill of lading—Coal	140
Copies to consignor	124
Damages, recovery, when	124
Defined	120
Exonerated, when	124
Negotiable	121
Negotiable by delivery	122
Obligations not altered by	123
Rights not altered by	123
Signature	90
Surrendered, on delivery	126
Bond of employees	524, 525
Certain agreements void	89
Coal—See Carriage of Property, this title.	
Common—See Carriers.	
Common Defined	78
Compensation	82
Concealing schedules Penalty for	87
Connect at state line with others	49
Consignee, defined	109
Consignor, defined	109
Constitutional provisions, see Corporation Commission.	
Contract Definition	75

INDEX TO SECTIONS

	Section
Construction, signature, assent	90
Contract of carriage	75
Corporation Commission—See also that title.	
Passenger rates	61-63
Two-cent fare refunds	64-67
Damages—Non-delivery of message	314
Recovery, when	124
Delays—Liable for	135
Delivery—Bill of lading surrendered	126
Exoneration, when	116
Manner of	113
Notice to consignee	115
Place of	114
Demurrage—See sub-title Railroads, this title.....	207, 216
Directions—Must obey	111, 112
Duty of common carrier	79
Ejection of passengers, when	105
Employees, bonds of, see also Corporations	524, 525
Exoneration, when	116
Fare, may demand	104
Fellow servants, rule abolished, when	297
Freight—Acceptance beyond usual route	137
Definition	109
Liability ceases, when	138
Freightage—Acceptance of part	132
According to distance	133
Apportionment of, how	131
Consignee liable for	129
Consignor liable for	128
Definition	109
Distance, according to	133
Extra, not to be paid	134
Increase of freight	130
Lien for, allowed	139
Payment of, when	127
Governments may be preferred	80
Gratuitous carriers	76
Liability	76
Must complete duty	77
Subject to what rules	76
Hotel Keepers—Chapter applies to	119
Interstate, connect with or cross others	49
Liability—Exoneration	89
When	125
When	107, 108
Lien for freightage	139
Lien for luggage	106
Limitation of liability	136
Liquor—Shipments, duties regarding	290-296

INDEX TO SECTIONS

CARRIERS—Cont'd.	Section
Luggage, see also Carriage of Persons, this title.	
Carried, how	100
Defined	98
Delivery of	100
Liability for	99
Lien, when	106
To carry	97
Messages—See Carriers of Messages.	
Must accept, what	79
Must complete duty	77
Must start when and where	81
Obligation, how limited	88
Limited by special contract	88
Overcharge and concealing rates	86, 87
Overcharges, penalty for	86
Passengers—See Carriage of Persons.	
Persons—See Carriage of Persons.	
Preference—State to have	80
United States to have	80
Provisions as to regulations	17
Railroads—See also Corporation Commission.	
Accommodations furnished by	205
Adjacent owners, rights	234
Agent's neglect of duty	217
Agent, to designate for service	485-487
All property of subject to execution and sale	69
Animals in transit	267-272
Cruel treatment prohibited	267
Lien for food, care, etc.	270
Limitation of time of confinement in cars	269
Penalty for failure to comply with provisions	271
Penalty recoverable by civil action	272
Provisions for unloading not to apply under certain circumstances	271
Railway companies to disinfect cars and pens	268
Sheep not required to be unloaded in night time	269
Unloaded to be fed and watered by or at expense of owner, etc.	270
Unloading for rest, water and feeding	269
Annual meeting of stockholders	68
Annual report, what to contain	178
Appraisement of lands, when	161
Arrest of trespassers—Procedure	278
When	278
Articles of Incorporation—Affidavit attached to	158
Certificate issued	178
Filed, where	158
Provisions of	158

INDEX TO SECTIONS

	Section
Articles or commodities produced, mined or manufactured not to be transported	73
Attachment—See Proclamation of President, Taking Posses- sion and Assuming control of, page 112.	
Bells and Whistles	225
Failure to ring bell of locomotive, penalty	226
Bell—Regulation for	225
Body corporate, when	164
Books and papers subject to inspection by Commission	11
By persons authorized by Commission	11
Penalty for refusal	11
Branches built	166
Bridges maintained	228
Joint construction with public authorized	341
Joint use of with public authorized	341
Over highways	170
Repairs	222
Buildings erected by	164
Bulletining trains	48
Penalty for failure to properly bulletin	48
Capital stock—Books opened, when	159
Increased, how	163, 254, 255
Personal property, deemed to be	162
Transferable	162
Care toward passengers	219
Cars—Delay in furnishing, penalty	207, 208
Furnished in four days	208
Furnished without discrimination	207
Marked, how	173
Penalty for failure to unload	211
Placed, how	211
To be transported	207
Causeway required, when	227
Certificate of incorporation issued	158
Changing corporate name	168
Changing highway	220
Changing line of grade	193
Charter forfeited, when	246
Cities and towns—See that title.	
Depots, regulation	229
Freight, regulation	229
Levees, regulation	229
Commission to inspect books	18
Commissioners for condemnation of land—See sub-title Emi- nent Domain, this title.	
Compensation, entitled to	82
Refusal of	82
Condemnation of Lands—See sub-title Eminent Domain, this title	164, 179, 204

INDEX TO SECTIONS

CARRIERS—Railroads—Cont'd.	Section
Conditional sale to	173
Conductor, drunk or neglectful, penalty	217, 293
Power to arrest for liquor violation	292
Connecting lines, duty	207
Connections, procedure	51, 53
When	164
Consignee, notice to, when	210
Consolidation, denial of	166
With corporation of other state forbidden	70
With foreign corporations prohibited	71
With parallel or competing	70
Construction, over highway	170
Where	164
Contract, filed with secretary of state	173, 174
For sale of property to	173, 174
Conveyances—By acknowledgment of	172
By execution of	172
Recorded	172
Notice	172
Corporate Matters—Annual report to stockholders	178
Articles of incorporation	404
Cancellation of charter, when	258
Capital stock, how increased	163
Changing corporate name	168
Company may sell or lease	242
Defense of usury prohibited	176
Directors	160
May be classified	177
May set aside money for payment of debts	175
To open stock books	159
Domestication by resolution	254
Eminent Domain—May purchase or take realty	183
See also sub-title Eminent Domain.	
Execution of conveyance or lease	172
Extension and branches may be built	166
Extension of road into State	180
Filing map of route	253
Incorporation	158
Articles and certificate	158
Increase of capital stock, by domestic corporations	256
By foreign corporation	255
Manner of recording contract, fees	174
May borrow money	165
May purchase or take realty	183
Must begin work in two years	257
Officers	161
Powers of railroad corporation	164
Route may be changed, when	167
Stock deemed personal estate	162

INDEX TO SECTIONS

	Section
Time extended—For construction	250
For domestication	251
Vendor's lien on equipment	173
What property subject to mortgage	171
Corpse, shipment, regulations	289
Cost	12
County seats—Must maintain depot	261
To pass through	261
County seat stops—Intrastate trains	262, 263
Crossing each other	50
Crossing—Causeway	227
Causeway on private land	227
Maintained	228
Signs kept	223, 224
Powers of city council	229
Railroads to construct	228
Culverts—Maintained	228
Over highways	170
Damages—Cars, failure to furnish	207, 208
Duty, failure to perform	206
Jurisdiction	215
Personal injuries	218
Defense of usury prohibited	176
Demurrage	207
Provisions, see sub-title, freight	207-216
Depots	47
Adequate	47
Agent must report trains	48
Clean	47
Comfortable	47
Freight	47
Lighted	47
Passengers	47
Powers of city council	229
Suitable	47
To maintain both passenger and freight	47
To maintain comfortable, etc.	47
Warmed	47
Directors—Classified, how	177
Election	160
Eligibility	160
May set aside money for payment of debts	175
Number of	160
Officers appointed by	161
Route changed, by	167
Route designated by	166
Sinking fund created, how	175
Subscriptions received by	159
Term of office	160

INDEX TO SECTIONS

CARRIERS—Railroads—Directors—Cont'd.	Section
Vacancy, how filled	159
Duty, failure to perform	206
Electric, see sub-title Street Railway.	
Eminent Domain—	
Condemnation of lands—	
Appointment of freeholders	184
Appraisement, new when	186
Certain state lands subject to right of.....	195
Changing line or grade	193
Claimant, procedure	192
Commissioners—Appeal to district court.....	186
Appeal to supreme court	187
Compensation	189
Jurisdiction	189
Report, how	184
Review of report	186
Selected	184
Sworn	184
Vacancy, how filled	189
Costs	186, 187
Damages—Assessment	184, 186
Change of grade	193
Payment of	184, 185
Deemed an acceptance of law	245
District judge to make order	184
For depots, switches, etc.....	164
For embankments	164
For highways, when	169
Freeholders summoned, when	184
Grade changed	193
Insane person, procedure	190
Judicial question	188
Jury trial, when	186
Lands—May enter upon	179
Purchased or taken	183
Married woman, procedure	190
Minor, procedure	190
Municipality	188
Non resident, procedure	191
Notice to owner	189
Occupant of public lands	192
Owner unknown	191
Provisions applicable to all corporations.....	188
Public lands	192
Roads, how	194
Supreme court, review by	187
Telegraph and telephone lines	321
Deemed an acceptance of law	245
Eminent Domain in general	188
Commissioners to act in all cases	189

INDEX TO SECTIONS

	Section
Extension of road into state	180
Fee of land taken by common carriers, for right of way	181
Foreign corporation domesticated to secure its benefits..	182
Must become domestic corporation	182
Owner entitled to compensation, when	185
Power to enter upon lands	179
Private property for public use.....	179, 181, 204
Right of way on public lands, damages to occupants...	192
Settlement with incompetents	190
State lands—Compensation of appraisers	197
Condemnation procedure	196
Extended to oil pipe lines same as railroads....	198
Municipalities	200
Others who may exercise the right.....	201
United States may condemn—Jurisdiction, when	
to vest	204
Lands	202
Waterpower companies	199
Taking by eminent domain, commissioners.....	184
United States may condemn—Jurisdiction	203
Unknown owner	191
Employees—Laws affecting, see corporations, employees..	514- 528
Engineer drunk or neglectful, penalty	217, 293
Examination of books and records, see Corporation Com-	
mission	27-42, 51- 53
Execution, see Proclamation of President Taking Possession	
and Assuming Control of	(page) 142
Extensions built	166
Extension of road into state	180
Facilities to be kept	207
Fare—Paid imposes duty on company	219, 220
Rate of two cents per mile, exceptions.....	60
To be paid	205
Fellow servant doctrine abrogated	297
Fellow servant rule, see carriers	297
Fences—Attachment to	234
Defined	233
Failure to build—Penalty	235
Fencing—	
Hog tight fence—when	237
Notice	238
Owner of abutting land may construct, when....	239
Lawful fence defined	233
Penalty for failure	235
Requirement	232
Rights of adjacent land owners to attach to	234
Fixtures, what are	171
Foreclosure, conveyance	165
Foreign—Capital increased	255, 256

INDEX TO SECTIONS

CARRIERS—Railroads—Foreign—Cont'd.	Section
Domesticated—How	254
When	252
Extensions, how built	180
Forfeiture, when	257, 258
Map filed	253
Route changed	253
Forfeiture of rights, when	257, 258
Forging tickets of passage	279
Franks	58
Penalty	58
Fraudulent bill of lading	282
Conviction	284
Fraudulent warehouse receipts	283
Duplicate receipts or vouchers	285
Free pass	57
Penalty	58
Free transportation and franks prohibited—Exceptions.....	57
Penalty	58
Free transportation of passengers forbidden, exceptions.....	57
Freight—Arrival, notice	210, 213
Bills of lading issued	209
Carried sixty miles a day	209
Cars bunched, provisions	212
Cars placed, how	211
Time for loading and unloading	212
Damages suit	214
Delay in carrying, penalty	209
Delivery of—Damages	211
How	211
Demurrage—Action to enforce penalty, attorney's fee..	215
Free time	213
Not a lien	212
Notice of arrival	213
Shippers, given time for loading cars	212
When	212
Law governing	216
Must give notice of arrival of freight.....	210
Must receive and forward	209
Notice of	210
Failure, penalty	210
Notice of arrival	213
Payment of	205
Placing cars for unloading	211
Rate of speed	209
Storage, when	211
Suit brought, jurisdiction	215
Time for loading and unloading	212
Transported	164
Warehouse charges	214

INDEX TO SECTIONS

	Section
Fuel, fixtures	171
Furnishing cars	208
Grade crossing	50
Grant to, how held	164
Gravel obtained, how	164
Headlight required	230, 231
Highway, changed, repair	220, 221
Passing over	170
Public	68
To be restored, when	169
Hospitals for employees—Corporation Commission to regulate	264
Investigation, protection of complainant	266
Removal of injured from state	265
Indebtedness paid, how	175
Industry track—Cost to be borne by private owner	54
Industries to be connected by private switch	54
Penalty for refusal to make connection and operate	54
Information demanded from, by Commission	12
Injuries—To railroads	276
Persons	218
When death ensues therefrom	277
In public highway	68
Inspection of books and papers	18
Interest	12
Interlocking crossings	50
Interlock or safety devices	50
Expenses	50
Intersection, procedure	164
Interstate rates	56
Corporation Commission to make application to Interstate Commerce Commission	56
Larceny of passage ticket	280
Larceny of securities, see also Railroads	281
Lease—Execution, how	172
Provisions for	242
Legislature not to exempt property from execution	69
Lessor, name marked, how	173
Liens against	301
How enforced	303
Life of lien	302
Notice	304
Liquor—Drunken engineer or conductor or driver	293
Liquor shipments	290
Misdemeanor for agent of carrier to deliver	295
Misdemeanor for consignee to give order to carrier	294
Misdemeanor to drink in public places	291
Misdemeanor to transport under false name	296
Railroad conductor has power to arrest	292
Livestock—Disinfection	268

INDEX TO SECTIONS

CARRIERS—Railroads—Livestock—Cont'd.	Section
Posting notices of killed	236
Records of killed	236
Locomotives marked, how	173
Long and short haul—Corporation Commission	59
Provision—Exemption from by Commission	59
Not applicable to what	59
Power of Corporation Commission	59
Special rates	59
Transportation or transmission company	59
Loss and damage—Notices of stock killed, see Livestock, this heading	236
May appoint police	278
Meetings and elections—Books and papers exhibited at	160
Capital stock increased	163
Notices of	163
Directors	160
Classified, how	177
Inspectors appointed	160
Name of corporation changed	168
Notice	160
Postponed, when held	160
Special, how called	160
Mixed train, duty	219
Money borrowed by, procedure	165
Mortgage, property subject to	171
Mortgages executed by	165
Municipal authorities may convey, improvement districts, how highways occupied	194
Must accept provisions of Constitution	72
Must pass through county seats	261
Name changed, how	168
Validity of former acts	168
Name of town to be name of station	259, 260
Not to consolidate with, of other state	71
Not to transport articles manufactured by it	73
Office in the state for transfer of stock, etc.	68
Officers appointed, how	161
Officer of one not to act as officer of other	70
Oklahoma Territory, domesticated	251
Outstanding indebtedness	12
Papers	11
Parallel or competing, provision as to consolidation	70
Passenger fare	60, 63
Appeal	63
Exemption by Commission	60
Passengers Accommodations furnished	218
Injuries Liability	219
Nonliability	218
Patent issued, when	158
Penalty	209

INDEX TO SECTIONS

	Section
Perpetual succession	164
Physical connection required—Procedure	51, 53
Expenses incurred	53
Physical valuation	12
Police—Appointment of	278
Powers	278
Powers of city council	229
Power of Commission to order connections, depots, etc.	52
Powers of—Enumerated	164
When granted	158
President—Appointment of	161
To make annual report to Corporation Commission	68
Private claims	55
Private property, for public use—See Eminent Domain, this heading	181
Taken for public use, compensation for	181
Right of way, fee in holder	181
Proclamation, the President Taking Possession and Assuming Control of	(page) 139
Attachment by mesne process or on execution not to be levied	(page) 141
Director General of Railroads Appointed	(page) 140
Guaranteed compensation	(page) 141
Railroads not subject to execution	(page) 141
Railroads subject to existing statutes, orders of Interstate Commerce Commission, order of State Commission	(page) 141
Railroads subject to orders of Commission	(page) 141
Street railways not included	(page) 141
Property of—Contracts recorded	173
Property subject to execution and sale	69
Provisions of Constitution to be accepted before securing benefits of future legislation	72
Provisions as to regulation	17
Public highways	68
Public service corporations	68
Purchaser of—Exemptions	165
Rates—See also reasonableness.	
See also Rules and Regulations.	
Application to Interstate Commerce Commission, when ..	56
Commission to report to Attorney General, when	56
Commission to report to Interstate Commerce Commission, when	56
Definition of	15
Excess prohibited	83
Long and short haul provisions—Exemption from by Commission	59
To be investigated by Commission	59
What not applicable to	59

INDEX TO SECTIONS

CARRIERS—Railroads—Rates—Cont'd.	Section
Passenger fare two cents per mile.....	60
Regulation of by Corporation Commission.....	17
To be investigated by Commission	56
Real estate acquired by	164
Regulation in cities—See Cities and Towns.	
Removing or masking signal light.....	275
Repairing of steam boilers unlawful, when.....	300
Repair shops maintained in State	243, 244, 245, 246
Repair tracks to be sheltered.....	298, 299
Report, annual, contents	178
Report of trains, penalty	48
Reports to Corporation Commission	68
Right of way; width	164
Right to construct, operate, connect, intersect and cross....	49
Rolling stock and property of, considered personal.....	69
Rolling stock and other property subject to taxation.....	69
Rolling stock, fixtures	171
Mortgaged	171
Roundhouses maintained	243, 245
Route designated for branches	166
Filed, how	166
May be changed, when.....	167
Rules for running trains	205
Penalty for violation	206
Salaries of officers	12
Sale of, provisions for	242
Sale under mortgage	165
Secretary, appointment of	161
Selling goods without consent of holder of a bill of lading..	286
Separate coach law	147-157
Service letter	526
Shipment of dead body	289
Shops and division points—Burden of proof on applicant, removal	250
Hearing on removal application	249
Jurisdiction of Corporation Commission over removal..	248
Permission of Corporation Commission required for removal	247
Signs at crossings	223
Neglect	224
Sinking fund created, how	175
Station to be name of town	259, 260
Steam boilers, repair	300
Stockholders vote for directors	160
Suit against Attorney's fees	215
Jurisdiction	215
Surveys made	161
Switches, etc. Construction	161
Must connect with	54

INDEX TO SECTIONS

	Section
Railroads must connect	54
Switching facilities required	51, 53
Telegraph and telephone lines, condemnation.....	321
Tickets—Purchasers may sell	241
Right to real in	240
To have office in State, where books, etc., kept.....	68
To have two paydays each month.....	522
To hold one meeting at least each year in state.....	68
To provide temporary way, etc.....	221
To transport each other's cars and passengers.....	74
To restore stream or highway	169
Trains, time of running	205
Treasurer, appointment of	161
Trees cut down, when	164
Trespassing	273
Offenders	274
Trust deeds executed by	165
Two-cent passenger fare	60
Amendment of Constitution	62
Claimants	65
Power conferred upon Commission	61
Proof	65
Reversion to State	67
Unclaimed refunds	67
Two pay days each month—Failure of company to comply...	523
Union depots	52
Unlawful delivery of goods, what is	287
Usury, defense of	176
Vendor's lien on equipment	173
Vice-president, appointment of	161
Warehouse charges	214
What property subject to mortgage	171
Whistle, regulation for	225
To blow, penalty	226
Rates—Agents prohibited from collecting excess.....	83, 84
Excess, prohibited	83-87
Regulation	82-87
Penalty for overcharge	86
Schedule open for inspection	85
Receive and transport each other's cars, etc.—Under act passed to regulate	74
Under rules of Corporation Commission	74
Without delay or discrimination	74
Reward—Undertaking, must complete	77
Without liability	76
Right to construct line in state	49
Schedule of rates	85
To be kept open	85
Separate coaches—See Carriage of Persons, sub-title "Separate	

INDEX TO SECTIONS

	Section
CARRIERS—Separate Coaches—Cont'd.	
Coaches	147-157
Start, when and where	81
State, preference to	80
Street Railways—See also Carriers, Railroads	158 et seq.
See also Corporation Commission.	
Corporation formed, how	306
Electric Railways	306
Franchises by	307
Legalized	308
Light and power franchises in cities and towns.....	307
Local authorities must first consent.....	305
Not to be constructed in cities without consent.....	305
Telegraph and Telephones—See Carriers of Messages.	
United States to have preference	80
Vehicles, must not be overcrowded	93, 94
Necessary	101
Warehousemen, Chapter applies to	119
CAUSEWAY—See Carriers, Railroads	227
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY—See	
Telephones	319
CHANGING CORPORATE NAME—See Railroads, Corporate Matters; this	
heading	168
CHANGING LINE OR GRADE—See Railroads, Eminent Domain, this	
heading	193
CHARTERS—See Corporations	406
Defined	13
Forfeiture—Where stock of another corporation is controlled.....	543
CITIES AND TOWNS—See Municipal Corporations.	
COAL—See Carriers, of Property	140-146
Shipment of, see Carriers	140-146
COMBINATION—See Monopolies.	
In restraint of trade, see Monopolies.	
COMMON CARRIERS—See Carriers.	
Definition	78
COMPETITION—See Monopolies.	
CONDEMNATION—See Eminent Domain.	
Of lands, see Railroads	164, 179-204
See Carriers, Railroads, Eminent Domain.....	202
CONSOLIDATION—Competing lines, provisions.....	70
Parallel or competing lines, provisions.....	70
With road of another state forbidden, except	71
CONSTITUTION—Amendment as to passenger rates.....	62
Article 9, Section 9, relating to railroads.....	71
Domestication of Corporations, right of eminent domain.....	182
Provisions of Article 9 limited so as not to violate United States	
Constitution	15
Repeal—Sections of Article 9, subject to	16
Effect of such repeal	16
Section—subject to be amended or repealed	16

INDEX TO SECTIONS

Section

CONTEMPT—See Corporation Commission.	
CONTEMPT PROCEEDINGS—See Corporation Commission.	
CONTRACT OF CARRIAGE DEFINED—See Carriers.....	75
CONVENIENCE AND NECESSITY—See Certificate of, Telephones.....	319
CORPORATION COMMISSION—See also Carriers.	
See also Each Utility.	
See also Monopolies.	
Annual Reports—Moneys	7
Failure to report, penalty	7
Failure to report—removal from office.....	7
Reports to Governor of expenditures and collections.....	7
Annual reports to Governor—Proceedings	9
Recommendations as to supervision and taxation of corporations	9
Annual reports to make	9
Appeals—Accounts kept pending	44
Action of Commission prima facie, correct	45
Action of Commission prima facie, just	45
Additional evidence ordered	45
Additional security	44
Amounts collected to be refunded, when.....	44
Attorney General to prosecute proceedings	43
Attorney General to represent State	43
Bond	44
Bond increased by order	44
By company affected by order of Commission.....	43
By State, when	43
Case remanded, when	45
Commission may enforce rates pending, when	46
Considered on appeal	45
Contempt, proceeding	29-36
Corporation appellee, when	43
Cotton Gins—See also that title	355
Location	355
Evidence certified by Commission	45
Evidence certified under seal	45
Facts certified to Supreme Court	45
From Corporation Commission to Supreme Court.....	43
From what orders, etc.	43
Gas conservation law	640
Grounds of	43
Have precedence	44
In what manner	43
Judgment affirmed, procedure	33
Certified copy	33
Sureties, against	33
Jurisdiction does not preclude prosecution in courts for damage	55
Jurisdiction of not exclusive of courts, when.....	55
Jurisdiction of Supreme Court	45

INDEX TO SECTIONS

CORPORATION COMMISSION—Appeals—Cont'd.	Section
Justness and reasonableness of order.....	45
Legislature may provide for	43
Mandamus and prohibition to, from Supreme Court.....	43
Manner in which may be taken	43
May fix new rates on	46
May make new rulings on new facts pending appeal.....	46
May remand for further evidence	45
May substitute orders, etc.	46
New order to be substituted	46
New rate to be fixed	46
No additional evidence to be introduced in the Supreme Court	45
No new evidence on appeal	45
No order retroactive	46
No other court except Supreme Court to have jurisdiction....	43
Not to be retroactive.....	46
Oil conservation law	583
Oil and gas conservation laws.....	583, 640
Order appealed not to be retroactive.....	46
Orders superseded	43
Overcharge refundable if appeal dismissed.....	44
Passenger fare	63
Pending appeal may act on new facts.....	46
Precedence upon docket of Supreme Court.....	44
Prima facie presumption	45
Procedure	43
Provision by Legislature as to	43
Reason of Commission filed	45
Reports	44
Reversal—Additional evidence	33
Review of order of, by other than Supreme Court.....	43
Shall be of right	43
State made appellee	43
State represented by Attorney General, by appointed repre- sentative	43
Statements of reasons to be certified	45
Statement of reasons filed	45
Statements to be read and considered by Supreme Court.....	45
Substituted order, effect	46
Supersedeas granted When	44
Supersedeas on	44
Supreme Court has exclusive appellate jurisdiction.....	43
Supreme Court may provide rules	43
Supreme Court may remand for additional evidence.....	45
Supreme Court to determine reasonableness and justice of action of Commission and all matters involved in appeal	45
Supreme Court Procedure, contempt	33
Supreme Court to make rules	43
Suspending bonds—Executed	41
Necessary	44

INDEX TO SECTIONS

	Section
To have precedence	31, 44
To Supreme Court only	43
Verified Reports	44
Assistants, salaries	6
Attorney General to prosecute proceedings	36
Authority supreme	20
Subject to appeal	20
Books, examination, refusal, penalty	39, 40
Chairman, elected	4
Clerks, salary	6
Commissioners—Compensation	5
How selected	1
Number	1
Oath	3
Qualifications	2
Salary	5
Terms	1
Vacancy filled by appointment	1
Conservation of oil and natural gas—See Oil & Gas.	
Contempt proceedings—Additional evidence, when	33
Affidavit filed	28
Amount of time	27
Answer filed	28
Attorney General to prosecute	36
Appeal—See also Corporation Commission, sub-title “Appeal.”	
Appeal	29
Bond	29
Supreme Court to give precedence to such appeals.....	31
Suspension, when	29
To have precedence	31
Undertaking	29, 30
Arguments of counsel	29
Before Commission	21
By whom instituted	28
Citation issued	28
Continuance, when	29
Corporation Commission may punish for	21
Default	29
Each day's continuance	27
Evidence—Additional, when	29
By defendant	29
Taken, when	37
Exceptions to judgment	29
Execution issued	32
Sale, how	32
Fees—Disposition of	34
Enumerated	35

INDEX TO SECTIONS

CORPORATION COMMISSION—Contempt Proceedings—Cont'd.	Section
Hearing, adjournment	37
How instituted	28
Information	28
Instituted, how	28
Judgment	29
A first lien	32
By default	29
Supreme Court on appeal	33
Moneys to be paid into state treasury.....	34
Overcharges distributed, when	30
Penalty	27
Pleadings by defendant	29
Punishment, when	28
Reasonableness of order may be pled as a defense.....	21
Separate offense	27
Supreme Court may remand any case for additional evidence or rehearing	33
Suspending bond, additional, when	30
Taxation of costs and fees	35
Trial	29
Witnesses' fees	35
Corporation License Law—See that title	369-384
Corporation License Tax—See Corporation License Law.....	369-384
Corporations to file statements of real estate held	427-429
Costs and fees enumerated—Contempt Cases.....	35
See also "Contempt" this title	35
Court of Record—Powers of—Administer oaths	21
Compel attendance	21
Compel attendance of witnesses and production of papers.....	21
Enforce lawful orders	21
Fines or other penalties	21
Production of papers	21
Punish for contempt	21
Reasonableness of Orders	21
Creation of	1
Decision, majority necessary	4
Depositions taken, how, when	38
Duties and Powers—Conservation Law—See "Oil & Gas,"	
Election of Members of	1
Execution issued, when	32
Sale, how	32
Fees—Account of to be kept	8
Contempt proceedings—See sub title Contempt Proceedings.....	35
Deposited in official depository	8 A-a
For refunds	8-b
For transcripts	8 a
Paid to State	8 A-b
Money belonging to general revenue funds—To report to	

INDEX TO SECTIONS

CORPORATION COMMISSION—Fees—Cont'd.	Section
State Auditor	S-A-4
State Depository	S-A-a
Deposits—how credited—payments	S-A-a
Penalties collected	S-A-b
State Treasurer	S-A-a
To charge for copies of records	S-a
Witnesses	35
Funds—See “Fees.”	
Fines—Amount of	21
Appeal from, suspension of order	21
Each day separate offense	21
May inflict for disobedience	21
Not to exceed \$500.00, except when	21
Gas Pipe Lines—Information furnished to Commission	597
Gas—Powers as to output and price—See “Oil and Gas” Regulation and Production.	
General orders	19
Publication	19
Published in annual report	19
Governor may require information of	7
Hospital for railroad employees, to enforce	264-266
How created	1
Interstate Rates—See “Railroads”	56
Investigation ordered by Supreme Court on appeal.....	45
Judgment Affirmance or reversal—Procedure—Contempt.....	33
A first lien	32
Against the sureties on appeal bond	33
Jurisdiction—See “Powers and Duties”	
See also “Each Utility.”	
Appeals—See “Appeals” this title.	
Arbitration	20
Contempt—See Contempt Proceedings, this title.	
License of Foreign Corporations Revoked—See also “Corporations”	536
Limitations—Cities and towns, when	20
Subject to control of legislature	20
May permit consolidation of property or lines.....	71
Members—Disqualifications	2
Election	1
Eligibility	2
Oath	3
Qualifications	2
Salary, amount	1
Term	1
Vacancy	1, 2
Offices and Employees—Accountants	6
Assistant Auditor	6
Auditor	6
Assistant engineer and tabulator	6
Assistant rate clerk	6

INDEX TO SECTIONS

CORPORATION COMMISSION—Officers and Employees—Cont'd.	Section
Clerks	6
Corporation record clerk	6
Court reporters	6
Draftsman	6
Engineer—Gas and electric	6
Railroad	6
Telephone	6
Expert accountant and rate clerk	6
Filing clerk	6
Gas engineer	6
Law and executive clerk	6
Marshal	6
Official stenographers	6
Rate expert	6
Reporter	6
Railroad engineer	6
Salary	6
Secretary	6
Stenographers	6
Tariff expert	6
Telephone engineer	6
Office Force and Salaries Prescribed	6
Oil Pipe Lines—Jurisdiction conferred	567
Plat to be filed—See Oil and Gas	570, 571, 573
Violation of Orders—See Oil and Gas	574
Orders	19
See also Appeal this title.	
See also Powers and Duties, this title.	
Courts no power to control	43
Disobedience, penalties	43
Evidence	19
Hearing	19
Mandamus to lie, when	43
Notice required	19
Not retroactive	46
Presumed to be just and reasonable	45
Proposed	19
Publication	19
Organization of	4
Passenger fare	66
Inspection of railroad books	66
Penalty for refusing examination of books	39
Physical connections may require	51-53
Pleading and Practice—See also "Appeal,"	
See also "Contempt Proceedings,"	
Powers and Duties—See also "Each Utility,"	
All in on tent rates, etc., void	17
Appealed Orders—Additional judgment for expenses of com- mission	24

INDEX TO SECTIONS

	Section
Powers and Duties—Arbitration, powers in, prescribed	20
Court of record, power of	21
Books and Records—Examination	39-42
Chairman, secretary	4
Charges and rates of transportation and transmission com- panies	17
Charge for long and short distances	59
Compulsory process	19
Constitution—Legislature may repeal sections 18 to 34 of Article Nine	16
Provisions as to limited as to United States Consti- tution	15
Repeal, effect of such repeal limited	16
Corporation license law	369-384
Corporations to file list of stockholders, etc.	370
Cost, indebtedness, bonds and salaries ascertained	12
Cotton Gins—See “Cotton Gins”	351-357
Correct abuses	17
Discrimination as to—See “Carriers.” See “Each Utility.” See “Monopolies.”	
Examine under oath, officers, etc.	11
Enumerated	17
Facilities and conveniences	17
Fine for refusal to permit examination, etc.	11
Fix rates	17
Franchise, restrictions on grant	344
Generally	17
General orders	19
To be published in annual report	19
Hospitals for railroad employees—See “Railroads”	264-266
Inspection of books and papers	18
Interference with city in regulation under franchise	20
Introduction of evidence before	19
Judgment	23
Legislation—To recommend	9
Long and short haul provision, may exempt from	59
Not applicable to what	59
May alter regulations	17
May exempt railroad from two-cent rate	60
May inspect books and papers	11, 18
Mediation	20
Monopolies	545
Municipal plants exempted	326
Notice given of proposed rate	19
Notice required	19
Oil—See Oil and Gas.	
Organization of	4
Particular notice	19

INDEX TO SECTIONS

CORPORATION COMMISSION—Powers and Duties—Cont'd.	Section
Physical connections	52
Prescribe penalty, waste of gas—See Oil and Gas.....	582, 639
Prevent discrimination	17
Process to enforce the attendance of witnesses	19
Public business	545
Public utilities—See also Public Utilities	326 (et seq.)
Publication of notice of general order	19
Railroads—See also Carriers—May employ experts.....	12
To ascertain cost of construction of railroad, etc.....	12
To ascertain floating indebtedness, etc.....	12
To ascertain judicial sale of property, and details thereof	12
To ascertain property on hand	12
To ascertain outstanding indebtedness, why incurred, etc.	12
To ascertain salaries of officers and wages of employees	12
To communicate information to attorney general.....	12
To print information in annual report	12
Rates—See also each utility; Public Utilities.....	327
Conditions precedent to fixing	19
May exempt from two-cent fare	60
Report to attorney general	56
To investigate	56
To report certain to Interstate Commerce Commission..	56
Real estate holdings of corporations to be filed	427-429
Refunds	22
Require service	17
Require reports	18
Right to inspect books and papers	18
Secretary, salary fixed by Legislature	4
Separate telephone booths for white and colored—See also telephones	316
Service—See also Public Utilities.	
Subject to legislative control in what cases.....	20
Supervise, regulate, control, transportation and transmission companies	17
Terms defined	15
To administer oaths	21
To arbitrate	20
To assess fines	43
To communicate to attorney general	12
To employ experts	12
To examine officers, etc.....	11
To hear evidence	19
To hear objections, when	19
To keep informed of physical conditions of railroad	18
To keep informed generally of services rendered	18
To inspect books, papers, etc.....	11
Penalty for refusal	11
To investigate through rates	56

INDEX TO SECTIONS

	Section
To issue process	19
To make annual reports	9
To prescribe and enforce rules	17
To prevent discrimination in services	18
To prevent waste—See oil and gas conservation.	
To print information	12
To protect commerce of state	59
To publish orders in annual reports	19
To publish proposed rates	19
To punish for contempt	21
To recommend legislation	9, 70
To regulate carriers, See carriers.	
To regulate cotton gins, see cotton gins.....	351, 357
To regulate crossings of railroads	50
To regulate gas pipe lines—See Gas Pipe Lines.	
To regulate oil and gas, See Oil and Gas.	
To regulate oil pipe companies	562
To regulate railroad and express companies, See Carriers.	
To regulate telegraphs and telephones, See carriers of messages.	
To regulate transportation and transmission companies, See carriers.	
To report to Interstate Commerce Commission, when	56
To report to state examiner and inspector	12
To require annual reports	68
To require refund after appeal decided	44
To require special reports	18
To require switches to be connected	54
Waste of oil and gas, See Oil and Gas.	
Witnesses, to compel	21
Proceedings when no quorum present	37
Prohibition to lie, when	43
Public business—Control by	545
Public Utilities—Jurisdiction extended	326-330
Quorum	4
Railroad passenger rates—Jurisdiction	61-63
Railroads. See also carriers—Consolidations with foreign corporations prohibited	71
Reasonableness of order may be pled	21
Refunds—Appeal	25
Escheat to state	26
For overcharges for public services—Powers of Commission	22-26
Unclaimed refunds	26
Reports—Annual of proceedings	9
Financial	7
Proceedings to governor, to state auditor—Penalty for violation	See
Rights of persons to prosecute private claims not taken away by	55
Salaries of assistants and clerks	6
Secretary elected	4

INDEX TO SECTIONS

CORPORATION COMMISSION—Cont'd.	Section
Separate telephone booths—Power to require	316
Terms of Commissioners alternating	1
To correct abuses	17
To make and enforce, rates, charges, classifications, rules and regulations	17
To prevent unjust discrimination	17
To require establishment and maintenance of such public service facilities and conveniences as may be reasonable and just.....	17
Transportation or transmission company	71
Two-cent passenger fare—Claimants	65
Power to collect and disburse refunds	64
Proof	65
Reversion to state	67
Unclaimed refunds	67
Union depots	52
Vacancy filled by governor until next election	1
Witness fees	35
Writs of mandamus and prohibition shall lie from the supreme court	43
CORPORATION LICENSE LAW—Annual fee	373
Annual statement—Domestic corporations	375
Foreign corporations	376
Foreign corporations not conclusive, etc.....	377
Certain companies excepted	372
Delinquency, suit to recover	379
Domestic corporation—Charter forfeited	380
Exempt, certain corporations	372
Exemption, when	373
Domestic corporations—Failure to file statement	379- 381
Failure to pay fees	379- 381
Exemptions	373
Failure to pay, penalty	379
False statement perjury	382
Fee for license	372
Fees, failure to pay, penalties	379- 381
Fee, payable when and where	374
Filing false statement, sorboration of perjury	383
Forfeiture of charter	380
Foreign corporations—Annual statements	377
Foreign Failure to file statement	379- 381
Failure to pay fees	379- 381
From Corporation Commission	373
Foreign corporation License forfeited	380
Judgment and execution against corporation	380
License procured from Corporation Commission	373
License required	372
License revoked, when	475- 480
Not applicable to certain corporations	372
Period of license	378
Perjury, when	382, 383

INDEX TO SECTIONS

	Section
Receipt filed before issuance of license	374
Statement or return, false oath	382
Statement—Failure to file with Corporation Commission.....	379-381
Tax payable before right to do business.....	372
CORPORATION LICENSE TAX—See Corporation License Law.	
CORPORATIONS—For a particular kind of corporation, see the specific title.	
See Public Service Corporations, Foreign Corporations, Domestic Corporations.	
Acceptance of grant	399
Proven, how	400
Action, incorporation, proof	411
Annual statement—Domestic corporation	375
Foreign corporation	376
Not conclusive	377
Anti-trust law, see Trusts	530-551
Articles of incorporation	398
Amendment, procedure	405
By whom must be subscribed	407
Certificate to issue	408
Contents of	403
Copy of evidence	410
Defined	398
Evidence, when	410
Incorporators, residents	407
Railroads and wagon roads	404
Railroad, contents	404
To be recorded	409
Ayes and nays	451
Books, inspection of, refusing	499
Business of, how conducted	436
By-laws—Adoption of	430
Adoption, meeting	430
Adoption of—Stock assenting	430
Amendment	432
Assent necessary	430
Certificate and record of	432
Copied in book	432
Provisions of	431
Repeal of	432
What may provide	431
Campaign contributions prohibited	513
Cannot be attacked collaterally	392
Capital stock—Books opened	416
Certificates issued	418
President to sign	418
Secretary to sign	418
Change in	450
Corporation may own its	420

INDEX TO SECTIONS

CORPORATIONS—Capital Stock—Cont'd.	Section
Diminished, how	450
Distribution, when	438
Dividends, ownership	421
Division of, prohibited	438
When	438
Excess void	419
Fictitious increase, void	355
Forfeited, when	417
Increased, how	450
Increase prohibited	438
Penalty	438
Increase pursuant to general law	385
Issuance, must be paid-up	385
Married woman, transfer	414
Must keep "Stock and Transfer Book"	452
Non-resident, transfer	449
Reduction prohibited	438
Shares negotiable	418
Personal property	418
Transfer	418
Subscription enforced	415
Subscription to	416
Transfer, bond required, when	449
Transfer book kept	452
Transfer not entered, when	449
Certificate, defined	398
Certificate of incorporation	398, 408
Certified and recorded	432
Charter—Control of stock of another corporation	543
Charters extended	406
Charter—Forfeiture	462
May be altered by legislature	386
Charter or franchise—Legislature may alter, amend, repeal, etc.	386
Chickasha Light, Heat and Power Plant, purchase authorized	70
Classes of	394
Collateral attack	392
Company defined	13
Complaint on election	413
Conspiracy in restraint of trade, see Trusts	530-551
Continuance of	389
Contributions to campaign funds	511
Contributions to election prohibited	509
Cotton—Cotton gins, public utility, regulations. See Cotton Gins, Weighing	363-365
County, city, town, or district not to become stockholder in, nor to obtain or appropriate money or levy tax for or loan credit to, ..	388
County attorney to proceed against, when	425
County or other municipality not to participate in private enterprise	388
Created by statute	390

INDEX TO SECTIONS

CORPORATIONS—Foreign—Cont'd.	Section
Created by general law	369, 390
Created or licensed by general law only	369
Creatures of the law	389
Debts, limitation	438
Defined	13, 389
Definitions generally	15
Destroying and falsifying books, etc.	497
Directors—Assent presumed, when	504, 505
Books, to open	416
Business conducted, by	436
Defined	507
Dissolution, application signed by	454
Powers on	463
Dividends, liability of	437
Election of	433-435
Number of	436
Powers of	436
Presumed to have assented, when	504
Presumed to have knowledge	503
Removal of	440
To elect officers	437
Trustees on dissolution	463
Liability of trustees	464
When director was absent from meeting	505
Discrimination—See also Monopolies.	
Prohibited	537
Dissolution—Application for	454
District court, by	454
How	453, 454
Involuntary	455-461
Costs	459
County attorney to bring action	455
Directors are trustees	463, 464
Judgment, when	458
Filed	461
Leave granted	456
Receiver to be appointed	460
When action may be brought	455
Who may bring	455
Judgment of	454
Protest against	454
Revival	465
Voluntary	454
Application—Filing and publication	454
Objections to, how made	454
How prepared	454
By the district court	454
Hearing	454
Judgment	454

INDEX TO SECTIONS

CORPORATIONS—Cont'd.	Section
Dividends	438
Belong to whom	421
Declared, from what	438
Liability of directors	438
Domicile of	475-480
Penalty for declaring foreign domicile	476
Duty of judge	477
Forfeiture of license	478
Effect of law on eminent domain	480
Duties to perform	438
Election	433, 434
Ballot	435
Complaint on	443
Held, when	433
Majority necessary	435
Notice	433
Postponed	442
Stockholder to have vote	435
Elections and Meetings—Adjournment	441, 442
By-laws, adoption	430
Capital stock, increase or decrease	450
Director, removal of	440
District court may inquire into	443
Executor and administrator may vote	413
Guardian may vote	413
Held, where	444
Insane person, how represented	413
Justice of peace may call	446
Minor, how represented	413
Notice required	445
Protest, procedure	443
Proxy	441
Quorum necessary	441
Quorum to be present	436
Stockholder entitled to one vote	435
Elections and meetings—Stockholders may call, when	442
Uncalled, valid, when	448
Valid, when	448
Vote voidable, when	441
Electric light	397
Eminent domain—See Eminent Domain	195-204
Restricted, when	480
Employees—Allowed to vote	510
Blacklisting	527
Penalty	528
Bonds of—Free choice of sureties	524
Resident sureties required	525
Conveniences for women—Penalty for violation	518

INDEX TO SECTIONS

	Section
Seats for rest	517
Eight hours to constitute a day's work, for county or state...	514
Letter to employee leaving service	526
Nine-hour day for women	515
Business included	515
Exceptions in times of calamity or rush—double pay..	516
Service letter	526
To be allowed time to vote	519
Wages—Money to be paid semi-monthly in certain occupations	519
Payment in non-negotiable paper a misdemeanor.....	520
Transportation and transmission companies—To have two pay days each month	522
Evidence—Articles of incorporation, when	410
Failure to pay fees, penalties	379-381
False representation by officer	439
Fees, filing articles of incorporation	384
Issuing license to foreign corporation by secretary of state...	384
License	373
Fines, penalties etc.—Property subject to	544
State to have lien	544
Foreign—See also Foreign Corporations.....	466, 477
Action, how brought	467
Not to be maintained, when	472
Agent, address given	467
Appointed	467
Appointment of	370, 468
Certified copy	468
Evidence of	468
Fee for filing certificate	468
List to be prepared	468
Service upon	370, 467
Affidavit filed annually with secretary of state	384
Anti-trust law, violation, prohibited from doing business.....	536
Articles, filed with secretary of state	466
Books and records, examined	473
Certificate to be filed	466, 467
Conditions imposed	371
Legislature may prescribe	371
Congress, powers relating to	471
Consolidation of railroad with	71
Contracts, enforcement of	469, 470
Domestication, right of eminent domain	182
Elections, campaign contributions prohibited.....	469-471
Examination of, duty to appear	473
Federal laws relating to	471
Fees to be paid	466
Fines, penalties and forfeitures, state to have lien	544
Influencing employee, penalty	470, 471
Jurisdiction, when	470

INDEX TO SECTIONS

CORPORATIONS—Foreign—Cont'd.	Section
Legislature may impose conditions upon	371
License—Revoked for trust violation	536
Revoked, when	475-480
Secretary of state	384
Tax, see Corporation License Law	372, 383
License by general law	369
List to be prepared	468
Must comply with all provisions applicable to domestic corporations	371
Must designate agent in state for summons	370
Must file copy of charter	466
Must file with Corporation Commission list of stockholders, officers, directors, addresses of	370
Must sell real estate	424, 425, 428
No defense	506
Not to do what domestic may not	371
Oil pipe lines	565, 572
Place of business stated	467
Process served on secretary of state, when	470
Process, service of	467
Production of evidence required	473
Violation, penalty	474
Railroad—Extension into state	180
Resident agent—Contracts void for noncompliance	469
May not sue without complying	472
Must appoint	467
Process served on secretary of state, when	470
Record of appointment	468
Restrictions	371
Secretary of state—Service on	470
Service of process	467
Secretary of state, when	470
State, examination by	473
Penalty for failure	474
Stockholders, list to be filed	370
Suit against maintained where	370
Suit against maintained in county of action	370
Suit against maintained in county of agent	379
Suit against maintained in county of plaintiff	370
Suit not to be maintained, when	372
Suit against, venue	370
To domesticate to secure benefits, see Carriers, Railroads	182
Transaction of business, when	466
Venue of action and service of process	183-191
Venue of action against	183
Violations of law—Property subject to fines	544
Forfeiture—By non-user	462
Control of stock of another corporation	543
Formed, how	397

INDEX TO SECTIONS

	Section
Frauds—Destroying or falsifying books	497
Forgery of public and corporate seals	492
Fraud in procuring organization of stock company	494
Fraud in subscription for stock	493
How punishable	501
Insolvencies deemed fraudulent	500
Omitting to enter receipt	496
Publishing false reports of corporation	498
Unauthorized use of names	495
Fraudulent advertising—misrepresenting wares, penalty	508
Gas—See also Oil and Gas.	
Domestic companies may purchase from foreign companies....	589
Regulation of production and transportation, see Oil and Gas.	
Grant—Acceptance of	399
Acceptance must be unconditional	399
Of corporate power subject to alteration, suspension or repeal	391
Illegal corporations	457
Incorporation—Not necessary to prove	411
One-third of incorporators must be residents	407
See Articles of Incorporation, this title.	
Individual liability of stockholders	447
Influencing vote of employees	512, 513
Insolvencies deemed fraudulent	500, 501
Land, acquiring	402
Land companies prohibited, etc.	424
Lapse of by non-user	462
Legalized	401, 402
Legalizing acts of	402
Legislature may alter or annul charter or franchise	386
Liable—Suit against	438
When	438
Liability	464
License—See Corporation License Law	369- 384
License tax—See Corporation License Law	369- 384
Majority act valid	437
Meetings—Calls, by whom made	445, 446
Place of	444
Written consent to	448
Members—Defined	412
Who are	412
Member, director must be	436
Mortgages, may take	424
Must accept law	399
Must have corporate name	393
Must not contribute to elections	509
Name—Misnomer in instrument	393
Must have	393
Unauthorized use	495

INDEX TO SECTIONS

CORPORATIONS—Cont'd.	Section
Negroes, separate coach law	147- 157
No immunity as to records, books and files	10
No right to participate in competitive	387
Not necessary to prove incorporation	411
Not to own stock of another corporation	387
Must dispose of stock in twelve months	387
Number of directors	436
Officers	398
False representations, damages	439
Resident of state	398
Violation of duty	502
Oil and gas—See that title.	
Organize, how	437
Owning stock of competitor—See Monopolies.	
Pay days, two a month required	522, 523
Postponed elections	442
Powers—By-laws, to make	422
Business to transact	397
Complain and defend	422
Contracts, to enter into	422
Denied	422
Generally	422- 450
Land, acquiring	402
Limitation	422
Members, to admit	422
Officers and agent, appoint	394
Real estate, what may hold	397
Sale to municipality	397
Sewers, construction of	397
To admit stockholders or members, etc.....	422
To appoint subordinate officers, etc.....	422
To enter into obligations or contracts, etc.....	422
To have succession by its corporate name	422
To make by-laws, etc.....	422
To make and use a common seal	422
To purchase, hold, etc., property	422
To sue and be sued	422
Transfer of property	422
Seal, to have	422
Stockholders, to admit	422
Subject to alterations	391
Succession, to have	422
Sue and be sued	422
Powers of	422
President, to elect	437
Presumed to have knowledge	*503
Private	394, 396
Created or licensed only by general law	369
Defined	396

INDEX TO SECTIONS

CORPORATIONS—Cont'd.	Section
May be formed	397
Prohibited from acquiring or holding land	423
Prohibited from contributing to political campaigns	599
Procuring organization of fraudulent, penalty	494
Property—Obtaining without receipt for same	496
Real—Cannot hold	424-428
Cannot own, except	423
County Attorney to proceed against	425
Dealing in	424
Sale of, in seven years	425
Public	394
Defined	395
Publishing false reports of corporations	498
Punishment for conducting business after license revoked	479
Quorum	437
Quorum of stockholders, proxies	441
Real estate—Disposition of surplus	425
Escheat, land illegally held by corporations	426
Lands, punishment for failure to file statements with Corpo- ration Commission	429
Statements by corporation officers—record	427
Statement to be filed	427
May foreclose mortgages	423
May take mortgages to secure loans	423
Must dispose of land in seven years	423
Not to engage in business of buying and selling land	423
Not to own except needed land	423
Prohibiting from holding, etc.	423
Public service, provisions as to land of	423
Real estate in cities and additions, excepted	423
Records and journal	451
Records, books, etc., examination, penalty, see Corporation Com- mission	38-42, 51
Record of business transactions and meetings to be kept	451
Records of, open to inspection	16
Records, subject to examination	11
Refusing to permit inspection of books	499
Removal, vote necessary	440
Reports, publishing false	498
Revival of	465
Revival after dissolution	465
Secretary of state to issue certificate	408
Secretary, to elect	437
Service of process against, foreign corporations	488
Agent to receive service in each county	485
Appointment of agent to be recorded	486

INDEX TO SECTIONS

CORPORATIONS—Service of process against—Cont'd.	Section
Foreign corporations non-compliance with law	489
Service of summons	484
Service where no agent appointed	487
Service of summons	484
Stock—	
Competitive corporation—Forbidden	387
Except pledged or on foreclosure	387
Holding forbidden	387
Issue and transfer of	418
Must dispose of in one year	387
No right to vote	387
Not to participate in control of corporation except by order of Commission	387
Corporation may own	420
Dividend belongs to whom	421
Excess issue void	419
Fictitious increase of, void	385
Held	370
Increased, how	385
Indebtedness, fictitious void	385
Issued only for money or value	385
May forfeit or recover subscription	417
Not to be increased except, how	385
Not to be increased without consent of majority of stockholders	385
Not to be issued except for money, labor done, etc.	385
Of any competitive corporation	387
Of married woman	414
Of minor, insane person or decedent	413
Subscription books	416
Subscription to may be enforced	415
Transfer to non-residents	449
Stock and transfer book	452
Stockholder—Applies to whom	447
Calls, by whom made	445
Defined	412
Directors must be	436
Guardian liable, when	447
Individual liability of	447
Insane person	413
Judgment against	447
Liability, how determined	447
List to be filed	370
Married woman, transfer	414
Meeting called by, when	442
Minor	413
Place of meeting	444
Proxies	441
Quorum	441
Suit against	447
Trustee not, when	447

INDEX TO SECTIONS

	Section.
Trust funds not liable, when	447
Unanimous consent to ownership of stock, when	420
Who are	442
Written consent to meeting	448
Street Railways—See Street Railways.....	306-308
Subscription to stock, fraudulent	493
Telegraph—May be organized	397
Telephone—May be organized	397
Term—"Charter" means, what	13
"Company" defined	14
Excludes municipal	13
Includes what	13
"License" means, what	13
Term of	434
To file list of officers, directors, addresses, amount of.....	370
To file statement with Corporation Commission before doing business	370
To file with Corporation Commission list of stockholders.....	370
Treasurer, to elect	437
Trustee may act as	424
Trustees on dissolution	463
Vacancy, how filled	436
Validated	401
Venue of actions against domestic corporations	481
Venue of action against foreign corporations	488
Venue of actions against foreign corporations and non-residents....	483
Venue of actions against transportation and transmission companies	482
Venue of actions—Foreign corporations, non-compliance with law....	480
Effect of revocation of charter	490
Violations, property subject to fines, etc.....	544
Violation of duty by officer of corporations	502
Visitorial power of Commission over	10
Waterworks may be organized	397
COTTON COMPRESSES—	
County weigher must weigh and record cotton	363
Weighing cotton—Compensation	364
Duty of county weigher	363
Interested persons present	363
Scales tested	365
Violation of Act	368
COTTON—	
Cotton compresses—County weigher to weigh cotton.....	363-366
COTTON GINS—	
Commission's jurisdiction over	353-357
Appeals to supreme court	355
Conveniences	354
Discrimination and extortion	354
Enforcement of orders	357
Facilities	354

INDEX TO SECTIONS

COTTON GINS—Commission's Jurisdiction Over—Cont'd.	Section
General powers	356
Licensing	352, 353
Public duties and charges	354
Rates	354
Service	354
Declared public utilities	354
See also Public utilities	351- 357
To be licensed	352
COTTON GINNERS AND DEALERS—	
Defacing brands or marks	360
Manager of gin to make report to board of agriculture	361
Record kept by ginner	358
Record kept by ginner and buyers	359
COTTON GIN UTILITY LAW—	
Validity of several sections	357
COTTON—	
Weighing—See Cotton Compresses	363- 368
COUNTY ATTORNEY—	
Corporation, dissolution, when—See Corporations.	
Duties in reference to trusts and monopolies—See Monopolies.	
COUNTY SEAT—	
Intrastate train stops—See Railroads	261, 262
Railroads within four miles must pass through, exceptions and conditions	261
COURTS—	
Appeals—See Corporation Commission.	
See R. R. private claims	55
See also Supreme Court, See also Corporation Commission.	
 D 	
DAMAGES—	
Anti-trust law violation	535
DEAD BODY—	
Shipment—See Railroads	289
DEFACING BRANDS OR MARKS—	
Cotton bales	360
DEFENSE OF USURY PROHIBITED—	
See corporate matters, this heading	176
DELIVERY, MANNER OF	
See Carriers of Property	113
DELIVERY, PLACE OF	
See Carriers of property	113
DEMURRAGE	
See Carriers, railroads	212
DEPOSITIONS	
See Corporation Commission	38
DESTROYING TELEGRAPHIC DISPATCHES	
See also Telegraphs and Telephones	324

INDEX TO SECTIONS

DISCRIMINATION—	Section
See Common Carriers	17
See Monopolies.	
Between different localities in any commodity	529
Corporation Commission.	
Prevented by Corporation Commission	17
In sale of public commodities, prohibited	529
Municipal plants, rates—See Municipal Corporations.	

E

ELECTION—	
Corporate contributions to campaign forbidden	509
ELECTRICITY—	
Wires, poles, etc., injuring	323
ELECTRIC UTILITIES—	
See also Public Utilities, this heading.	
EMINENT DOMAIN—	
See also Carriers, Railroads	179- 204
See also Compensation	182
See also Condemnation	182
See also Damage	182
See also Private Property	182
See also Public Use	182
See also Taking	182
See also Telephones	321
Agricultural purposes	201
Appraisalment—Appeal from	196
Appraisers appointed	196
Award, payment of	196
Compensation of appraisers	197
Duties of appraisers	196
Report to governor	196
Bond given, when	196
Building sites	200
By corporations, domestic	182
By oil pipe line company	198
By person, firm or corporation	201
By political subdivisions	200
By United States	202
By water power company	199
Cemeteries	200
Character of use a judicial question	181
Cities and towns, public utilities—See Municipal Corporations.....	346
Corporations must incorporate in this state	182
Easements	201
Electric utilities	338
Fee of land taken by carrier	181
For pipe line	198
Foreign corporations must domesticate	182

INDEX TO SECTIONS

EMINENT DOMAIN—Cont'd.	Section
Freeholders—Appeal from	181
How appointed	181
To ascertain compensation in eminent domain	181
Gas pipe lines	591, 592, 597- 599
Gas utilities	338
Highways	200
How right acquired by foreign corporations	182
In general—See Carriers, Railroads	179- 204
Mining purposes	201
Oil pipe lines	563- 576
Owner entitled to immediate compensation	181
Postoffice, etc.....	202
Private property, for public use	181
Private ways of necessity	201
Procedure—See also Railroads	158, 188, 196, 258
Public lands subject to	195
Public parks	200
Public purposes	200
Public utilities	338
Railroad purposes—See Railroads	164, 179, 204
Restricted, when	480
Rights of way	200
United States, jurisdiction conferred and reserved	203, 204
EMPLOYEE—	
See also Corporations, this sub-title.	
Arbitration by Corporation Commission	20
ESCHEAT—	
See corporations, real estate	426
Alien lands, when	426
Corporation lands, when	423
Corporations, property of, when	426
Proceeds go to school fund	426
Provisions enumerated	426
EVIDENCE	
Appointment of agent—See Foreign Corporations.....	166-471
EXECUTION	
Corporations—Against, where failure to pay license tax.....	380
Railroads—See Railroads, Proclamation of President.....(page)	139
Railroad stock and movable property of public service corporation...	69
(C) PAPER COMPANIES	
See also Carriers—To transport each other's cars and passengers ..	74
RAILROADS	
See also Carriers—Right to construct, operate, connect, intersect ..	49
(C) 10% OF ROADS TO STATE	
See Eminent Domain, the preceding	180

INDEX TO SECTIONS

F

	Section
FARE—	
Lien on luggage for—See Carriers of Persons.....	106
When payable—See Carriers of Persons	104
FEEES AND SALARIES—	
See Corporation Commission, Secretary of State, Corporations.	
FEEES—	
Incorporation—See also Corporations	384
License, corporations	373
Refunds	8a
Secretary of state	384
Transcripts	8b
FELONIES—	
Corporations, frauds relating to	493- 507
Corporation license tax, false statement	382, 383
FELLOW SERVANT DOCTRINE—	
As to railroads and street railways, and their receivers	297
Doctrine abrogated	297
FELLOW SERVANTS RULE ABOLISHED—	
When—See also Carriers	297
FENCES—	
Railroad—See Railroads	232-239
FENCING—	
See Railroads	232- 239
FINES, PENALTIES AND FORFEITURES—	
See also Contempt Proceedings.	
Anti-trust violation	538
Corporation property subject to	544
Oil and gas violation—See also Oil and Gas.	
Oil pipe lines	574- 576
Railroad crossings—See Railroads	225-226
Railroad whistle and bell—See Railroads	225-226
FOREIGN CORPORATION—	
See Corporations	466- 477
Foreign Corporation—See also Monopolies.	
FORGERY—	
Corporation, books, false entries	497
State	492
Tickets of passage	279
FORGING TICKETS OF PASSAGE—	
See also Railroads	279
FRANCHISE—	
See also Municipal Corporations	342- 350
See also Public Utilities.	
City may grant	349
Election procedure	342, 343
Exclusive, not granted	344
Granting of	348
How granted	342, 343

INDEX TO SECTIONS

FRANCHISE—Cont'd.		Section
Light—See Railroads		306- 308
Maximum period		342
Restrictions on grant		344
Street railway—See Carriers, sub-title street railways		306-308
FRANK—		
Definition of		15
Free, prohibited, exceptions		57
FRAUD—Corporation officers—See Corporations		496, 501
Fraudulent advertising		508
Fraudulent bill of lading—See also Railroads		282, 284, 285
Fraudulent consumption of gas—See also Gas		333
Fraudulent warehouse receipts—See also Railroads.....		283, 284, 285
FREE PASSES—		
See Passes.		
FREIGHTAGE—		
Defined—See Carriers of Property		109
See Carriers of Persons		127- 133
FREIGHT—		
See Carriers—Defined, see Carriers of Property		109
See Carriers of Property		135- 139
See Carriers—Railroads		210, 211
FRESH WATER—		
Conservation—Protection of strata		579
G		
GAS—		
See "Oil and Gas"—Domestic companies may buy of foreign com- panies		589
Fraudulent consumption of		333
Meters—Injuring or altering		333
Minimum charge prohibited		334
Minimum charge prohibited, penalty		335
Required, cities and towns		331
Required, cities and towns, violation of Act.....		332
Ownership defined and output restricted.....		630, 633, 637
Pipes or mains, injuring		323
Regulation of production and transportation—See "Oil and Gas,"		
Standard meters required in municipalities		331, 332
Gas pipe lines—See "Oil and Gas,"		
Gas plant—City may own, see Cities and Towns.....		346
GINNERS AND DEALERS		
Penalty for violation of law		361
GOVERNOR		
See also Corporation Commission.		
May appoint Commissioner, when		1
To transmit to legislature report of Commission		7
GRATUITOUS CARRIERS		
See Carriers.....		76

INDEX TO SECTIONS

H

	Section
HEADLIGHT—	
See Railroads	230, 231
HIGHWAYS—	
Construction over—See Railroads	170
Right of—Electric, gas or oil utilities to use.....	336, 337
To be restored—See Railroads	169
Use of bridges over by public service corporations.....	339, 340
Use of by heat, light or power companies.....	336, 338
Use of by heat, light or power companies not granted to interstate pipe lines	336
Use of by public utilities—Commission's jurisdiction over.....	337
Jurisdiction of county commissioners.....	336
HOG TIGHT FENCE—	
See Railroads.	
HOSPITALS—	
For railroad employees—See Railroads	264-266
HOTEL-KEEPERS—	
See Carriers of Property	119

I

ICE PLANTS—	
Certain towns authorized to expend funds	347
INCORPORATION—	
See Corporations—See also Railroads	158
INJUNCTION—	
Trust, against, procedure	531- 534
INJURIES TO PERSONS—	
See Carriers—Railroads	218
INJURIES TO PIPES AND WIRES—	
See also Telegraphs and Telephones	323
INJURIES TO RAILROADS—	
See Carriers, Railroads	276
INJURING TELEGRAPH OR TELEPHONE LINES—	
See also Telegraph or Telephones	322
INTERSTATE RATES—	
Application to Interstate Commerce Commission for correction or relief—See Railroads	56

J

JIM CROW LAW—	
See Carriers of Persons, separate coach law	147-157
JUDGMENT—	
Corporation against—See Corporations.	
Failure to pay license tax	380
Corporation Commission, contempt—See Corporation Commission	27- 42
Dissolution—See Corporations	455- 461
Stockholders, against, see Corporations.	

INDEX TO SECTIONS

L

LABOR—	Section
See also Corporations, Employees.	
Day's work, eight hours, when	514
Eight hour law	526
Letter given employee	526
Passes and franks, use of	58
Payments in non-negotiable paper	520-521
Wages, payable semi-monthly	519-521
LABOR LAWS—	
Nine-hour labor law—See also Corporations, Employees.....	515- 518
LARCENY OF PASSAGE TICKET—	
See also Railroads	280
LARCENY OF SECURITIES—	
See also Railroads	281
LEASE—	
Oil and Gas, see that title.	
Public utilities—See Municipal Corporations	346
Railroads, executed by—See also Railroads	71
LEGISLATURE—	
Constitution, may amend sections 18-34, Art. Nine	16
Limitations—Not to grant street railroad franchise.....	305
Passes, relating to	58
Reports of state officers transmitted to	7
LIABILITY FOR LUGGAGE—	
See Carriers of Persons	99
LICENSE—	
See Corporation License Law—Term means what	13
LICENSE LAW—	
Corporations	370- 384
LICENSE TAX—	
See Corporation License Law.	
LIENS--	
Against equipment—See Carriers, Railroads	173
Against railroads—See also Railroads	301, 302
Corporation Commission See that title	27- 42
Corporation license tax enforced, how	379
Corporation, state to have, against	544
For labor or supplies	693
Luggage See Carriers	75, 76
Railroads, against	301
LIQUOR SHIPMENTS	
See Railroads	290
LONG AND SHORT HAUL	
See Railroads	59
LUGGAGE	
Carriage and delivery of See Carriers of Persons	100
Detent See Carriers of Persons	98

INDEX TO SECTIONS

M

	Section
MANDAMUS—	
See Corporation Commission.	
MEDIATION—	
See Corporation Commission	20
METERS—	
See also Gas.	
See Public Utilities, gas	331, 332
MINES AND MINING—	
Switches—Railroads to connect	54
MONOPOLIES, ANTI-TRUST LAWS—	
Combinations in restraint of trade unlawful	542
Liability of	557
Of corporations, definition	555
Controlling stock in rival corporations—See Corporations.....	387
Corporations owning stock in competitive corporations.....	387, 543
Corporation owning stock of competitor, penalty for	543
Corporation Commission—See also that title	545
County attorney to prosecute	541
Reward	551
Damages to weaker competitor	557
Discrimination, between persons, communities, etc.....	529
Penalty and recovery	538
Unfair, defined	552
Unlawful	537
Duty of attorney general	531
Duty of receiver, evidence	533
Foreign corporations forfeit license by violation.....	536
Indictment or information shall state what.....	539
Investigations	553
Monopoly, prohibited	529
No recovery for goods sold in violation of law	549
Penalty and recovery	538
Previous and continuing violations of law included	547
Proof required	546
Public business defined	545
Purchaser may recover damages	550
Recourse of injured parties	535
Remedies additional to former remedies	548
Restraining order, receiver	532
State to have lien on property of law breaking corporation.....	544
Stay bond	534
Stock in competitive corporation	387, 543
Trusts—Attorney general to file information	531, 534
Conspiracy in restraint of trade defined	542
County attorney to prosecute	551
Damages for violation	535
Damages, recovery of	550
Declared illegal	530

INDEX TO SECTIONS

	Section
MONOPOLIES—Anti-Trust Laws—Trusts—Cont'd.	
Defining trust	530
Discrimination prohibited	529, 537, 545
Fines, penalties and forfeitures—Property subject to	544
State to have a lien	544
Foreign corporations prohibited	536
Indictment or information, what necessary to state	539
Injunction against, procedure	531, 534
Master in chancery appointed	533
Nuisance, defined as a	531
Officer or employee to testify	549
Perjury by officer or employee	549
Previous violations continued	547
Prohibited	530
Prosecutions, duties of attorney general and county attorney	541
Proof necessary	546
Prosecution analogous to libel	531
Public business defined	545
Purchase of trust-made articles	549, 550
Purchaser of articles not liable for payment, when	549, 550
Receiver appointed, procedure	531-534
Remedies not abridged	548
Sale of articles, defense of illegality	548
Stock in another corporation owning or controlling, charter forfeited	543
Trust declared illegal	530
Trust defined	530
Violation of law, penalty	538
Witnesses—Attendance compelled	540
Subpoenas for	540
Unfair competition—Definition	556
Exceptions	556
Unfair discrimination—Definition	552
Violations of act	554
Punishment	554
Witnesses	540
MONOPOLIES—	
Corporation Commission jurisdiction	545
MUNICIPAL CORPORATIONS—	
Business, may engage in	345
May own	346
Electric lights—Contract for, when—See also Electric Utilities	349
See also Electric Utilities	350
Eminent Domain—See Eminent Domain	195, 201
State lands—See Carriers, Railroads	198
Franchise, exclusive, never granted	341
Extended, created, renewed only by vote	342
Freight, storing regulation—See also Railroads	229
Garbage, reduction plants, may own	346
General or special election	342

INDEX TO SECTIONS

	Section
Granted by, requisites -----	342
Granting procedure -----	342, 343, 344
Granted, when -----	349, 350
Highways, control of state -----	344
May engage in any business which might authorize by franchise -----	344
Not granted for longer than 25 years -----	342
Petitions for election, concerning -----	343
Power to regulate charges for public services retained -----	344
Procedure -----	342, 343
Restrictions on grant -----	344
Submission for approval, how -----	342
Submission for election -----	343
To control and regulate enjoyment of -----	344
Use regulated -----	344
Gas plant, may own -----	346
Gas supply—Purchase from foreign corporations -----	589
Gas, regulation of -----	350
Ice plants -----	347
Incorporation acts and ordinances legalized -----	348
Light, prices, regulation -----	349
Lighting streets -----	349
May engage in business -----	345
Acquire public utilities -----	346
Municipal plants exempted from jurisdiction of Corporation Commission -----	326
Not to be authorized to appropriate for corporation -----	388
Not to lend credit to or levy tax for corporation -----	388
Power of town board of trustees -----	350
Public utilities—See also Public Utilities.	
Railroad, use by—See also Railroads -----	229
Railways, regulation of—See also Railroads -----	346
Regulation of -----	350
Reservation of control over by state -----	344
Street railroads—Consent necessary—See also Street Railways -----	305
Telephone wires, regulation—See also Telephones -----	350
MUNICIPAL PLANTS—	
Not subject to jurisdiction of Corporation Commission -----	326
 N	
NATURAL GAS—	
See Gas—See Oil and Gas.	
NEGRO DEFINED—	
See Carriers of Persons, separate coach law -----	147- 157
NEGRO WAITING ROOMS, COACHES, ETC.—	
See Carriers of Persons, separate coach law -----	147- 157
NINE-HOUR DAY FOR WOMEN—	
See Corporations, Employees -----	515, 516
NOTICE TO CONSIGNEE—	
See Carriers of Property -----	115

INDEX TO SECTIONS

O

OATH OF OFFICE—	Section
See Corporation Commission.	
OIL AND GAS—	
Authority and duties conferred exclusively upon Corporation Commission	560
Repeal clause	561
Abandoned wells to be plugged, how	620
Chief conservation agent	559
Common carrier, defined to be	568
Conservation—See Oil—See Gas, this title.	
Conservation law—See Gas Conservation—See Oil Conservation.	
Corporation Commission—See also Corporation Commission.	
Department authorized—See also Corporation Commission.....	559
Firing or interfering with, unlawful	627
Gas—Burning gas during day	618
Conservation agents	641
Conservation—Abandoned wells to be plugged, how.....	620
Acceptance of law by pipe lines	642
Appeals to supreme court	640
Burning gas during day	618
Commercial quantities defined	626
Common purchaser, fair treatment	638
Corporation Commission—Agents	641
Common purchaser rule	638
Excess gas supply, apportionment	637
Hearings before	639
Power to make rules and regulations	641
Disposition of waste from wells	619
Excess gas supply, apportionment	637
Firing oil or gas, or interfering with appliances unlawful	627
Flambeau lights unlawful	616
Hearings before the Corporation Commission	639
Hours lights may be used at derricks	617
Inspectors—Appointment, qualifications	621
Inspector to supervise plugging	625
Meter, requirements	609
Only 25 per cent of capacity of gas wells to be taken	608
Operator to furnish inspector record of drilling	626
Penalty for violation of laws	628, 611
Plugged well record kept open to public	621
Power of Corporation Commission	641
Protection of strata	579
Prohibition of output, prices and amounts of gas to be taken	631
Right of action, restrictions on output	630
Wells confined until used	611
Wells to be plugged from one pipe line unlawful	615

INDEX TO SECTIONS

	Section
Validity of several sections of act independent	643
Waste—Defined	635
Waste prohibited	634
Prohibited	634, 579
Corporation Commission authorized to publish list of abandoned wells	622
Appropriation for	623
Disposition of waste from wells.....	619
Firing Oil or Gas, or interfering with appliances unlawful...	627
Flambeau lights unlawful	616
Hours lights may be used at derricks	617
Inspector to supervise plugging	625
Operator to furnish inspector record of drilling	626
Ownership defined	629
Penalty for violation of laws	628
Pipe lines, see sub-title Gas Pipe Lines.	
Plugged well record kept open to public	621
Purchasers of output, prices and amounts of gas to be taken..	631
Rights of owners, restrictions on output	630
Taking more than share of gas, damages and penalties.....	632
Violations of act, punishment	633
To be confined until used	614
Unnecessary waste from gas pipe line unlawful	615
Waste defined	635
Gas pipe lines—See also Corporation Commission,	
Business and persons subject to the act, vested rights excepted	600
Common Carriers, exemptions	602, 603
Non-compliance with act made unlawful	684
Obligations	603
Records for Corporation Commission	605
Common purchasers, requirements	602
Corporation, how organized	587
Corporations to become domestic	596
Damages for right of way	592
Domestic pipe line companies, may cross highways.....	599
May erect pumping stations	598
Eminent domain	591, 592, 597, 599, 601, 606
Enforcement by Corporation Commission	613
Filing records with Corporation Commission.....	607
Foreign and domestic corporations to have separate ownership	590, 591
Foreign company not to be licensed	588
Gas corporation, how organized	587
Highways	599, 601, 606
May cross	599
Information to be furnished Corporation Commission	597
Inspection	593, 595, 599
Interfering with, or firing, unlawful	627
Lines over private property	595

INDEX TO SECTIONS

OIL AND GAS—Gas Pipe Lines—Cont'd.	Section
Meters, requirements	609
Only 25 per cent of capacity of gas wells to be taken.....	608
Plats to be filed with Corporation Commission	597
Prerequisite to carrying gas	605
Pressure pumps prohibited	594
Pumping stations	598
Records for Corporation Commission	605
Right of way	601
Must be granted by charter and damages paid.....	592
To be laid under direction of Corporation Commission.....	593
Unnecessary waste from gas pipe line unlawful.....	615
Violations of law, enforcement by Corporation Commission...	613
Punishment	610
Receivership, procedure	611
Reports of gas companies	612
Waste, unnecessary, prohibited	615
Gross Production Tax—Act not retroactive	681
Delinquent tax, collection	676
Distribution and use of taxes	679, 680
Effect of invalid parts of act	682
Production	675
Purchasers' reports, enforcement of regulations	677
Regulations	675
Reports	675
Of shippers	678
Taxes	675
Inspectors—See Wells, this title.	
Inspection—See also Oils and Gasoline.	
Leasing—Board of Affairs may lease lands of public institutions....	684
School land—Acts in conflict	692
Commissioners of the Land Office	685
Empowered to segregate	686
Funds, bonuses, royalties	691
Lessee liable to surface owner	690
Provisions of lease	688
Rules governing leases	689
Term of lease	687
Lien on oil or gas well for labor or supplies	693
Natural gas—See Gas, this title.	
Oil and Gas department authorized	559
Oil Conservation, See also Corporation Commission.	
Corporation Commission, enforcement of law	582
Agent	559
Hearings	582
Power to make rules for prevention of waste	579
Power to prevent inequitable taking	580
Power to regulate production and sales	578
Wells gauged	581
Discrimination of purchaser prohibited	580
Production regulated	580

INDEX TO SECTIONS

	Section
Protection of strata	579
Waste defined	579
Prohibited	577
Inspection—See Oils and Gasoline.	
Pipe lines—See Oil Pipe Lines.	
Production and sale regulated	578
Waste prohibited	577
Oil Pipe Lines—See also Corporation Commission.	
Acceptance of laws	570
Plats to be filed with Commission	570-573
Carrier not to be interested in producing	569
Certified transcript shall be evidence	576
Common purchasers of oil	566
Exceptions	567
Corporation Commission—Plat to be filed with; acceptance of laws	570, 571, 573
Discrimination prohibited	568
Eminent domain	198
See Carriers, Railroads	182
State lands, see Carriers, Railroads	198
Who may have right of	572
Exemption from provisions, jurisdiction conferred	567
Firing or interfering with, unlawful	627
Foreign corporations	565-572
Oil carriers, are common carriers	568
Not to be interested in producing	569
Penalties suspended, when	575
Plats to be filed	570
Commission may extend time	573
Purchase, requirements of	566
Required to purchase oil	566
Right of way	564
Domestic companies granted	571
Right to construct, operate, connect, intersect and cross.....	49
Right to use of highway by those furnishing heat or power, see also highways	336, 337
To be controlled and regulated by the Corporation Commis- sion	562, 563
To receive and transport each others tonnage, oils, etc.....	562, 563
Violations of law—Evidence, prima facie	576
Penalty	574, 575
Suspension of penalty, when	575
Ownership of river bed mineral rights	683
Production regulated	580
Regulation and inspection of wells, see also conservation.	
Wells—Regulation and inspection of—	
Disposition of waste	619
Abandoned wells plugged	620
Burning gas during day	618

INDEX TO SECTIONS

	Section
OIL AND GAS—Wells—Regulation and Inspection of—Cont'd.	
Firing or interfering with, unlawful	627
Flambeau lights unlawful	616
Gas confined until used	614
Inspector, appointment, qualifications	624
Drilling record furnished	626
To supervise plugging	625
Lights used at derricks, hours	617
Plugged well record open to public	621
Unnecessary waste unlawful	615
Violations, penalty	628
OIL INSPECTOR—See Oils and Gasoline.	
OIL PIPE COMPANY—Defined	
Regulation, generally—See Corporation Commission.	15
See also Carriers.	
See also Corporation Commission.	
Subject to control of Corporation Commission	562
To receive and transport each other's tonnage	562
OILS AND GASOLINE—	
Gasoline—Kept in red tanks	674a
Penalty	674b
Inspection, Adulteration	667
Bonds	659
Brands to be affixed by inspector	669
Brands to be affixed by manufacturers and dealers	671
Certain oils to be tested by gravity test	668
Civil liability for unlawful sales	666
Duties of inspector	647
Failure to erase marks or brands, penalty	661
Fees, by whom paid	657
Fees of oil inspectors	656
Further rules for inspection	670
Imitation or alteration of inspector's marks, penalty	664
Inspectors, appointment	648
Duties	647, 648
Fees, by whom paid	657
Fees of	656
Misconduct of, penalty	662
Neglect or misconduct of duty, penalty	663
Records and reports	658
Salaries	648
Jurisdiction to inspect liquid products conferred on Corporation Commission	645
Law not to apply, when	660
Liability of manufacturers and wholesalers	673
Manner of testing oils	650
Oil Approval or condemnation after test	651
Manner of testing	650
Oil condemned may be used for what purpose	652
Test	649

INDEX TO SECTIONS

	Section
Penalty for hindering inspection	655
Prosecutions	674
Recovery of fines, and penalties	672
Sale of condemned oils	654
Sale of uninspected oils	653
Terms defined	646
Unlawful importation and sale of oil	665
 P 	
PASSENGER FARE—See Carriage of Persons.	
PASSENGERS—See Carriage of Persons.	
PASSES—See also Carriage of Persons, Carriers, sub-title Railroads.	
Not to be granted free, exceptions	57
Prohibited	57, 58
PENALTIES—For taking illegal output of gas—See Oil and Gas.	
PENALTY FOR DESTROYING RECORDS	41, 42
PENALTY FOR REFUSING EXAMINATION OF BOOKS,	39, 40, 42
PERSONS—See Carriage of Persons.	
PHYSICAL CONNECTIONS—See Railroads	
Telegraphs and Telephones	309
PIPE LINE COMPANIES—See Oil and Gas, Gas Pipe Lines, Oil Pipe Lines.	
POLICE—Railway companies may appoint—See also Railroads.....	278
POWERS AND DUTIES—Attorney General, duty	56
See also Corporation Commission.	
PRIMA FACIE—See Appeals, Corporation Commission.	
PRIVATE CORPORATIONS—See Corporations.	
PRIVATE PROPERTY—Taken for public use—See Eminent Domain.....	181
PROCEEDINGS WHEN NO QUORUM PRESENT—See Corporation	
Commission	37
PROCESS—See Service, Summons.	
Foreign Corporations—See that title	466-474
On railroads, etc.	485-487
PRODUCTION TAX—See Oil and Gas, Gross Production Tax.	
PROPERTY—Sale of unclaimed and perishable—See Carriers of Prop-	
erty	117, 118
Subject to mortgage—See Railroads, sub-title, Corporate Matters,	
this heading	171
PROCLAMATION OF PRESIDENT TAKING POSSESSION AND AS-	
SUMING CONTROL OF RAILROADS—See also Railroads... (page)	139
PUBLIC BUSINESS—See Monopolies	545
PUBLIC CONVENIENCE AND NECESSITY—See also Telephones.....	317
PUBLIC SERVICE CORPORATIONS—See Carriers.	
See Carriers of Messages, Telephones and Telegraphs.	
See Corporation Commission.	
See Corporations, Railroads.	
See Rates.	
See Street Railways.	
Action against, pending decision of Corporation Commission.....	55
Annual meetings in state	68

INDEX TO SECTIONS

PUBLIC SERVICE CORPORATIONS—	Section
Annual meetings of stockholders	68
Annual report	68
Violation	68
Appeals from Corporation Commission—See Corporation Commission.	
Arbitration, when	20
Bond defined	15
Books and papers	18
Inspection of	11
Penalty for refusal	11
Certain provisions of law may be repealed	16
Charge, defined	15
Long and short distances, mileage and excursion tickets excepted	59
Company defined	14
Connecting lines, right to	49
Consolidation with competing lines by sale or lease prohibited, except	70
Construction of law	15
Contract jointly with city or town for bridge	341
Cost, indebtedness, bonds and salaries ascertained	12
Cost of replacing outfit of	18
Definition of	15
Discrimination prohibited	537, 545
Eminent domain—See Eminent Domain	195-204
How exercised—See Eminent Domain	182
Examination by experts	12
Excessive through rates, investigation by Interstate Commerce Commission	56
Fellow servant doctrine abrogated	297
Foreign, how right of eminent domain required	182
Frank defined	15
Free transportation prohibited	57
Freight defined	15
Includes what	15
Information demandable from, by Commission	12
Interest	12
Lease prohibited, when	70, 71
Movable property considered personal and subject to execution.....	69
Must accept constitution	72
Not to own land, except	423
Office in the state for transfer of stock, etc.	68
Officers, examination of	11
Oil pipe companies. See Oil and Gas	562
Orders, violation, penalty	43
Outstanding indebtedness	12
Pace prohibited	57
Person defined	15
Physical valuation	12

INDEX TO SECTIONS

PUBLIC SERVICE CORPORATIONS—	Section
Powers of Corporation Commission as to refunds for overcharges, 22-	26
President to report under oath annually to Corporation Commission	68
Property subject to execution and sale	69
Provision as to regulation	18
Public business defined	545
Purchase prohibited, when	70, 71
Railroads—See Carriers.	
Rate defined	15
Real property, not to hold	423
Regulation defined	15
Regulation of, charges, power not surrendered	344
Generally—See Corporation Commission.	
Reports to Corporation Commission	68
Right taken away, unless	182
Right to construct and operate lines	49
Rolling stock considered personalty and subject to execution	69
Salaries of officers	12
Subject to control of state	545
Telegraphs—See Telegraphs and Telephones.	
Telephones—See Telegraphs and Telephones.	
To hold at least one meeting a year in state	68
To maintain public office in state	68
To transport each other's cars and passengers	74
Transmission company defined	15
Transportation company defined	15
Use of bridges, highways	339-341
Streams	339-341
Where stock and other books kept, and names and residences of stockholders	68
PUBLIC UTILITIES—	
Commission's jurisdiction over, appeal	330
Business, records of	329
To inquire into management and method conduct	327
To prescribe rules, requirements and regulations affecting operation, management and conduct	327
Contempt	328
Implied powers	328
Rates, to fix and establish	327
Services, to prescribe rules, requirements and regulations	327
Cotton Gins—Declared to be	351
See also Cotton Gins	351-357
Defined	326
Electric, heat, light and power	326
Gas by pipe line	326
Gas, heat or light	326
Water, domestic, power	326
Electric, use of highways—See also Highways	336, 337
Eminent domain—See also Eminent Domain	338

INDEX TO SECTIONS

PUBLIC UTILITIES—	Section
Gas, use of highways—See also Highways	336, 337
Municipal plants excepted	326
Natural gas, meters—Charge for not to be made	334, 335
Municipalities affected	331
Required	331, 332
See also Natural Gas	331-335
Use of highways by—See Highways	336, 337

Q

QUALIFICATIONS—Of officers; see Corporation Commission.

R

RAILROADS—See Carriers.

See Corporation Commission.

See Public Service Corporations.

RAILROAD COMMISSION—See Corporation Commission.

RAILROAD COMPANY—See Carriers, Railroads.

RATES—Carriers—See Carriers.

Power of Commission to refund overcharges—See Corporation Commission.

Public Utilities—See Public Utilities.

REAL ESTATE—Regulation of holdings by Corporations, filing reports with Corporation Commission

427-429

REALTY—See Real Estate; see Corporations, Railroads.....

183

RECORDS—See Penalty for destroying records.....

41, 42

REFUNDS—See Corporation Commission.

REWARD—See Carriers.

REPAIR TRACKS—To be sheltered; see also Railroads.....

298, 299

ROUTE—May be changed, when; see Railroads

167

S

SALARIES—Corporation Commission, office force

6

SECRETARY OF STATE—Fees

384

Foreign corporation duties—See Foreign Corporations

466-474

License of foreign corporations revoked, when

536

SECRETING TELEGRAPHIC DISPATCHES—See also Telegraphs and
Telephones

324

SELLING GOODS WITHOUT CONSENT OF HOLDER OF A BILL OF
LADING See Railroads

286, 288

SEPARATE COACH LAW—See Carriage of Persons

147-157

SERVICE LETTER See Corporations, Employees

526

SIDE TRACK See Industry Track

54

SIGNAL LIGHT See also Railroads

275

SIGNS AT CROSSINGS See Carriers, Railroads

223

STATE LANDS Subject to right of eminent domain; see Carriers, Rail-
road, Eminent Domain

195-204

STEAM BOILERS See also Railroads

200

STREAM TO BE RESTORED See Railroads

169

STREETS Lighting of See Municipal Corporations

349

STOCK See Corporation

INDEX TO SECTIONS

	Section
STOCKHOLDERS—See Corporations.	
STREET RAILROADS—See Street Railways.	
STREET RAILWAYS—See Carriers, this sub-title.	
Regulation—See also Municipal Corporations.	
SUMMONS—Corporation, service, see Service of Process, corporation, how	484
Railroad and stage company	485
SUPERSEDEAS—Against Corporation Commission	44
SUPREME COURT—Appeals	31
From Corporation Commission—See Corporation Commission.	
SUSPENDING BOND—Appeals from Corporation Commission—See Corporation Commission.	
SWITCH—See Carriers, Railroad to connect with.....	54
SWITCH TRACT—See Carriers, Railroads, Industry Track	54

T

TAXATION—Corporation License Tax, see Corporation License Law.....	372-374
TELEGRAPHS AND TELEPHONES—See Carriers of Messages.....	309-325
TELEGRAPH AND TELEPHONE COMPANIES—See Carriers of Messages.	
See also Corporation Commission.	
See also Public Service Corporation.	
TELEPHONES—See Carriers of Messages.	
TERMINATION OF LIABILITY—See Carriers of Property.....	116
TERMS—	
“Bond”	15
“Charge”	15
“Charter”	15
“Company”	14
“Corporations”	13
“Frank”	15
“Freight”	15
“License”	13
Person	15-15a
Person—includes corporation	15a
“Public Service Corporation”	15
“Rate”	15
“Regulation”	15
“Transmission Company”	15
“Transportation Company”	15
TRANSMISSION COMPANY—See Telegraphs and Telephones.	
See also Corporation Commission.	
See also Rates.	
Consolidation with foreign corporations prohibited	71
Property subject to execution and sale	69
Provision of constitution to be accepted before securing benefits of future legislation	72
What term includes	15
TRANSPORTATION COMPANY—See Carriers.	
See also Corporation Commission.	
See also Public Service Corporations.	
See also Railroads.	

INDEX TO SECTIONS

	Section
TRANSPORTATION COMPANY—Cont'd.	
See also Rates.	
Consolidations with foreign corporations prohibited	71
Property subject to execution and sale	69
Venue of action against	482
What term includes	15
TRANSPORTATION AND TRANSMISSION COMPANY—	
As to regulation of, generally, see Corporation Commission.	
Free frank or pass not to be issued, exceptions	57
Long and short haul provisions, generally	59
Private Claims	55
Provisions as to Regulation	17
Provisions of constitution to be accepted before securing benefits of future legislation	72
Venue of action against	482
TRESPASSING—See also Railroads	273
TRUSTS—See Monopolies, Anti-Trust Laws.	
Unfair competition and discrimination — See Monopolies, Anti- Trust Act.	
TWO CENT PASSENGER FARE—See also Corporation Commissions.....	60
TWO CENT PASSENGER FARE—See also Railroads	60
TWO CENT FARE—Corporation Commission empowered to adjust refunds	65-67

U

UNFAIR COMPETITION—See Monopolies, Anti-Trust Laws.	
UNFAIR COMPETITION AND DISCRIMINATION—See Monopolies, Anti-Trust Laws.	
UNFAIR DISCRIMINATION—See Monopolies.	
UNION DEPOTS—See Railroads	52
UNITED STATES—Condemn Lands	202
UNLAWFUL DELIVERY OF GOODS—See Railroads	287, 288
UNREASONABLE RESTRAINT OF TRADE—See Monopolies, Anti-Trust Laws.	

V

VENUE—See Venue of Actions.	
VENUE OF ACTIONS—See also Corporations.	
Against domestic corporations	481
Foreign corporations, against	483
Transportation or transmission company	482
VOLUNTARY DISSOLUTION—Of corporations; see Corporations.....	453-465

W

WAREHOUSE CHARGES— See Railroads	214
WAREHOUSEMEN— See carriage of property	119
WASTE— See Oil and Gas, conservation.	
WATER POWER COMPANIES— Eminent Domain, State Lands, see Car- riers, Railroads	198
WATER WORKS— See Municipal Corporations.	
Pipes or mains, destruction of	323
WAY, RIGHT OF— See Eminent Domain.	
WEIGHING COTTON— See Cotton Compresses	363-368

INDEX TO SECTIONS

	Section
WEIGHTS AND MEASURES—Weighing of baled cotton; see Cotton	
Compresses	363-368
WORDS AND PHRASES—See also Specific heads.	
See also Terms.	
WORDS AND PHRASES—Bonds	15
Company	13
Corporation	13
License	13
Oil and Gas Terms	646
Petroleum	563
Rate	15
Regulation	15
Transportation Company	15
Trusts	530
WORK AND LABOR—See Corporations, Employees.	
WRIT OF PROHIBITION—Against Corporation Commission, when.....	43

Index To Annotations

A

	Page
ACCIDENT—See Corporation Commission	31
ADEQUATE FACILITIES—Defined; see Railroads	16
APPEALS—See Corporation Commission	25
When dismissed, see Corporation Commission, this heading.	
See Cotton Gin Company, this heading.	
Right of under Anti-Trust Laws	226
ASSAULT—By fellow passengers	63
By strangers	63

B

BAGGAGE—Common carrier must receive	64
Liability for, when not accompanied by passengers.....	64
Rules for checking—See Corporation Commission, order	64
BILL OF LADING—Not "Special Contract"	62

C

CARRIERS—Common Carrier, see also Carriers, regulation; see Corpora- tion Commission, rules	65
Discrimination—See Street Railways, fares of school children.....	17
Express companies—Rates, reasonableness of Commission's orders..	40
Reasonableness of Commission's orders	39, 40
Industry spur and switch track—What constitutes unlawful discrimination	13
Orders—Appeals—Parties—See Corporation Commission, this heading.	
Orders of Corporation Commission—Supersedes	35
Passenger tickets	62
Passenger train Taking on and discharging passengers, duty.....	65
Railroads Adequate and reasonable facilities interstate train....	13
Adequate facilities, defined	16
Assault of passengers	63
Bridges Duty to construct at own expense.....	115
Bulletining trains Order No. 1 of Corporation Commission..	45
Car doors to be opened at stations	66
Carriage of passengers "Interstate Passenger".....	54
Carriage of persons Duty of passenger where train does not stop at destination	67
Ejection, right of recovery	66
Payment of back fare	67
Personal injury, negligence	65
Place of ejection of persons refusing to pay fare.....	67

INDEX TO ANNOTATIONS

	Page
Right of passenger to seat	65
Right of railway to eject	67
Sheriff's passenger fare — Order of Corporation Commission	55
Ticket unsigned by passenger	67
Exemption from liability	61
Cars, duty to furnish	102
Rules governing for loading—Charge for those not used	111
Rules governing furnishing for loading—Deposits re- quired	110
Rules governing furnishing for loading—Deposits re- turned	111
Furnishing cars, inability to	111
Time for	111
Furnishing of	110
Holidays, excluding	111
Inability to furnish	111
Receipts	110
Requisitions	110
Form of	111
Returning deposits	111
Time excluding	111
Time for furnishing	111
Time for loading	111
Time for placing	111
Causeway—Undergrade crossing included	116
Claims—Power to limit their liability	62
Time for filing	62
Common law rule, liability	61
Conductor, authority to remove trespassers	67
Contract, maximum liability	61
Construction, notices in tickets	62
Providing for notice of loss	61
Special contract, bill of lading	62
Corporate matters, homestead settlement	81
Right of way	81
Stock not transferable, when	80
Subscription to railroad valid	81
Corporation Commission—Checking baggage rules	64
Free storage interstate shipment	15
Order governing storage, superseded legislative acts ...	12
Orders locating stop stations	15
Order requiring opening car doors	66
Order requiring heating of passenger cars, steam and electric railways	63
Order requiring public service corporations to charge published rates and give exact change	60
Order requiring purchasing tickets before boarding trains	66
Order requiring railroads to print amount of fare on	

INDEX TO ANNOTATIONS

CARRIERS—Railroads—Corporation Commission—Cont'd.	Page
tickets -----	65
Order in re sheriffs' passenger fare -----	55
Crossings—Corporation Commission -----	117
Jurisdiction of Corporation Commission -----	14, 16
Maintaining flagmen—order of Corporation Commission -----	17
Power of municipality to compel -----	86
Power municipal corporations to regulate speed and signals from trains at -----	116
Power to compel -----	117
Private -----	13
Right to establish railroad crossings vested in local authorities -----	117
Writ of prohibition to prevent enforcement of Com- mission's order -----	118
Demurrage and storage rules—Cars placed for loading -----	107
Cars placed for unloading -----	107
Cars subject to rules -----	106
Charges, demurrage -----	107, 108, 109
Charges, storage -----	108, 109
Complaints -----	108, 109
Computing time -----	106
Demurrage charges -----	107, 108, 109
Free time allowed -----	106
Demurrage—Interstate shipment -----	104, 105
Notification -----	107
Placing cars for loading -----	107
Placing cars for unloading -----	107
Storage charges -----	108, 109
Time computing -----	106, 107
Time free -----	106
Weather -----	108
Depot and station facilities—State line stations -----	13
Depots— Change of location -----	14
Compulsory union depots -----	48
Defined -----	42
Depot construed -----	42
Joint -----	11
Jurisdiction of Commission -----	14, 42
Jurisdiction of Corporation Commission to specify ma- terials -----	43
Location -----	42
Location, jurisdiction of Corporation Commission -----	14, 45
Location—Order Corporation Commission -----	15
Maintained -----	42
Maintenance—Duty to have premises safe -----	62
Opening baggage rooms -----	46
Opening ticket windows -----	46
Powers of Commission and rights of public -----	13
Power to specify materials—See Railroads -----	43

INDEX TO ANNOTATIONS

	Page
Removal	42
Service at	46
Telegraph stations in	37
Telephone, required by order of Corporation Com- mission	18
To be kept clean	45
Duties of carrier of passengers defined	63
Ejection of passengers	66
Ejection of passengers, damages	67
Mental suffering as element of	67
Eminent domain, condemnation proceedings	92, 93
Damages to property	90
Method of procedure	92, 93
Power of municipalities to convey land	97
Power to take land	90
Proceedings	93
State lands	97, 98
Damages	98, 99
Trespass	92
Equal facilities	49
Establishing stations—Corporation Commission, orders.....	15
Fare—Tender to prevent ejection	115
Fencing road—Against children	119
Against persons	119
Duty to fence right of way within limits of city, town or village	119
Measure of care to company to maintain fence once constructed	119
Fencing—What are depot grounds	119
Flagmen at street crossings—jurisdiction of Commission....	11
Flag station—Jurisdiction of Corporation Commission.....	37
Order of Corporation Commission	15
Free transportation to baggage agents	15
Freight—Action public authorities as defense to carrier for delay	73
Bills of lading	82
Bill of lading (Sunday)	71
Connecting carrier's liabilities for injuries to freight on own line	73
Constitutionality, legislation affecting amount of lia- bility or penalty for delay in delivery of.....	73
" Demand " defined	73
Demurrage—Interstate Commerce	160
Delay due to inadequate facilities	73
Loss and damage—Act of God	68
Burden of proof	67
Floods	67
Liability as warehouseman	102
Limitation of liability by contract	61

INDEX TO ANNOTATIONS

CARRIERS—Railroads—Freight—Loss and Damage—Cont'd.	Page
Negligence	68
Notice of arrival	69
Notice of arrival, warehouseman	69
Notice of loading shipment	102
On failure of shipper to demand proof	73
Presumption as to injury	73
Loss and damage, presumption as to injury	73
Termination of carrier's liability	70
Maritime lien for freight	73
Necessity of notice of arrival of goods	70
Notice of arrival of goods	103
Right of consignee to reject consignment for delay in transportation	72
Rules governing the handling and movement of	109, 110
Bills of lading	109
Carload	109
Cars—Refusal of	112
Cars, receiving, loaded	109
Charges, for	112
Deliveries, partial	110
Excluding holidays	110
Holidays, excluding	110
Issuing bills of lading	109
Less carload	109
Movement, rate of	110
Notice of refusal of shipment	112
Orders, shipping	109
Partial deliveries	110
Rate of movement	110
Rates on long hauls	112
Receiving carload freight	109
Receiving less carload freight	109
Shipping orders	109
Rules governing reconignment of, charges for reconignment	112
Conditions of	112
Destination, first	112
Excluding holidays	110
First destination	112
Maximum hauls	112
Rates, through	112
Refusal of shipments	112
Through rates	112
Storage, see demurrage and storage rules, this title.	
Storage—Interstate commerce	12
Switching charges—penalties	17
To whom delivered under bill of lading	71
Waiver of lien by attachment or execution	73
Freight train—Passenger injured	63

INDEX TO ANNOTATIONS

	Page
General offices in Oklahoma, see Corporation Commission.	
Heating of cars	63
Highways—Damages	83
Industry spur—Railroad can be compelled to furnish connections	49
Industry spur—Sidetrack	36
For elevator	13
Injuries to animals—In action by abutting owner.....	119
Requirements and liability	120
Statutory notice deemed to have been waived, when..	118
Injuries to persons—Carrier exempted from liability, when..	114
Interference with interstate commerce	15
Interstate shipment does not end until delivery to consignee	12
Joint traffic arrangements	15
Keeping ticket windows open—Violation of Corporation Commission's order	25
Legislature has power to require reasonable facilities and conveniences	12
Liens against—Food contractor for employees and teams....	138
Limitation on ticket	65
Liquors—Responsibility of carrier for transporting intoxicating	137
Livestock—Dipping cattle, power of Corporation Commission to fix rates	15
Dipping of cattle—Jurisdiction of Corporation Commission	18
May prescribe rules and regulations.....	65
Municipalities—Power to compel change of grade.....	86
Orders of Corporation Commission governing storage superseded legislative acts	12
Passenger fare—Children, no opportunity to purchase tickets	66
Excess, no opportunity to purchase tickets	66
Ticket, limitation of	67
Passenger train—Failure to perform duty	65
Plans to be approved by Corporation Commission	42
Private facilities	49
Private side tracks, construction	48
Property subject to mortgage	86
Public highways	56
Private carriers, as	59
Public service—See livestock, dipping of cattle, this heading.	
Rates—Building material grain	14
Factors considered by Commission in determining.....	13
Freight, reasonableness of Commission's orders.....	19
Not to be advanced without application to Commission	10
Regulation—Adequate facilities	75
As to stopping trains	65
By Corporation Commission	33
Connections	50

INDEX TO ANNOTATIONS

CARRIERS—Railroads—Regulation—Cont'd.	Page
Decisions of Corporation Commission	32
Order requiring trains to stop at station	15
Orders of Corporation Commission—Review	33
“Other Industry” defined	50
Passenger trains	16
Power of Corporation Commission discussed	16
Telephone as public facility	18
Removal of poles, wires, etc., for house moving	128
Repairing steam boilers—Unlawful to permit entering, when	138
Riding on platform	115
Right of way—Grant by congress	81
Right to eject persons having contagious diseases	63
Rules governing operations—Commission’s order supersedes	66
Rules of Corporation Commission—Regulating wire crossings, over	149
See Industry Spur and Switch Track, this heading	13
Separate coaches—Colored passengers in freight coaches	75
Liability for placing white passenger in car for colored persons	75
Right of carrier to separate passengers on account of race	75
Shall not advance rates without application to Commission	10
Shipment of live stock—Notice of injury	61
Side tracks—Construction	49
Cotton gins	49, 50
Extent of railroad’s duty	50
Powers of Corporation Commission	49
Signals—Duty as to	116
Duty to give	116
Duty to give at crossings	116
Giving the statutory—Trainman’s duty	116
Liability for failure to give	116
Power of municipal corporation to regulate	116
Special contract—Reduced freight rates	61
Special shipping contract—Limitation of liability	61
Station, changing name—Jurisdiction of Corporation Com- mission	16
Defined	42
Stations at state line, necessity	15
Stock pens—Removal	37
Stopping of interstate trains—Reasonableness of Corporation Commission’s order	15
Stopping interstate trains	13, 14
Stopping trains at flag stations—Order of Corporation Com- mission	15
Storage of baggage—Regulation by Corporation Commission	39
Street crossings—See Crossings, this heading.	
Sunday train—Order Corporation Commission	15
Switch	49

INDEX TO ANNOTATIONS

	Page
Difference in location	49
Switching charges—See also Freight, this heading.	
Switching charge	13
Telegraph office	14
Telegraph service	13, 18
Not required to install for commercial purposes.....	12
Telephone, a facility and convenience	12
Tickets—Passengers not required to show before boarding cars	66
Reasonableness of Commission's show ticket order.....	39
"Unlawful discrimination"	49
Viaduct crossing—Jurisdiction of Corporation Commission....	14
Regulation—Hearing before Corporation Commission—See Corpora-	
tion Commission, pleading and practice.	
Orders of Corporation Commission—Evidence	25
Rules—Power of Corporation Commission to make	17
Street Railroads—See Street Railways.	
Street Railways—Corporation Commission, order—Violation.....	25
County commissioners—Jurisdiction	18
Discrimination—Fares of school children	17
Fares of school children	17
Fares—Order of Corporation Commission	39
Franchise—Power of municipality to grant	139
Heating of cars	63
Interurban railway fares	37
Municipal power to impose conditions	143
Reduced transportation for school children	51
Regulation—Transfers, order of Corporation Commission	17
Street stops, violation of Corporation Commission's order....	26
Tickets for school children, case cited	51
Transfers—Jurisdiction of Corporation Commission.....	17
Violating order to stop car	22
What motive power may be used	143
Violation of Orders—See Corporation Commission, this title.....	25
CARRIERS OF MESSAGES—Telegraphs and Telephones—	
Appeals from Corporation Commission—See Corporation	
Commission	41
Damages—Amount of	144
Exemplary	145
Failure to make sale	145
Measure of damages	145
Mental anguish	144, 145
Nondelivery of messages	145
Notice of contracts	145
Duty to furnish physical connection and service to local com-	
pany	144
Going concern, value	20
Jurisdiction—Action for refund of excess charges.....	23
Corporation Commission	144
Loss and damage, see Damages, this title.	
Official messages of public officers given preference.....	146

INDEX TO ANNOTATIONS

CARRIERS OF MESSAGES—Telegraphs and Telephones—Cont'd.	Page
Only telephone lines operated for hire	144
Order of Corporation Commission—Conclusiveness	21
Rates—By injunction	21
Corporation Commission	34
Not to be increased without application to Commission	146
Power of municipality to fix	162
Regulations—Orders of Corporation Commission	33
Removal of wires on highways for house moving	150
Telegraphs—Constitutional law	20
Delivery, charge	20
In railroad stations, see Railroads, Depots.	
Rates—jurisdiction of Corporation Commission, reason- ableness	20
Service at railroad stations	18
Up-town ticket office	14
See Carriers	59
See also Carriers, Railroads	12
Telephones—As public facility in railroad station, see Railroads	18
Commission has jurisdiction over line owned by indi- vidual	9, 13
Depreciation, see Depreciation.	
Jurisdiction of Corporation Commission	19
Jurisdiction on appeal	37
Office, Coalgate	37
Order dividing toils, on appeal	41
Mutual company, jurisdiction Corporation Commission	19
Rates	14
Regulation, findings of facts	37
Service, when required—reasonable hours	19
Sunday operation	13
Valuation of property	19
Wire crossings over railroads	149
Transmission of Messages—Must use great care	144
Transportation Companies—Regulation Corporation Commis- sion	33
CAUSEWAY—See Carriers, Railroads.	
CHARTER—Chickasha Light, Heat and Power Plant, purchase authorized.	
CITIES AND TOWNS—See Municipal Corporations.	
See Carriers, Railroads, time for filing	62
COMMERCE—Means of regulation	50
Shipment Contract—See Carriers, Railroads, this heading.	
Telegraphs, order of Corporation Commission	20
COMMON CARRIERS—See Carriers.	
COMMON LAW LIABILITY—See Carriers, this heading.	
CONDUCTOR—Authority to remove trespassers, see Carriers, Railroads, this heading	67
CONSERVATION LAWS—See Oil and Gas.	

INDEX TO ANNOTATIONS

	Page
CONTEMPT PROCEEDINGS—See Corporation Commission.	
Carriers, see Corporation Commission, this heading.	
Pleading, jury trial, see Corporation Commission, this heading.....	25
Punishment for violation of statutes, see Corporation Commission...	25
See Corporation Commission, burden of proof	24
CONTRACT—See Carriers, Railroads	61
Construction—Liability, see Carriers, Railroads	62
Notices contained, on tickets, see Carriers, Railroads	62
CORPORATION COMMISSION—	
Appeal—See also Pleading and Practice, this title.	
Anti-trust law	226
Case made	36
Certificate of Commission	36
Evidence pending appeal	36
Findings of fact, duty of Commission to make.....	36, 37
Findings of fact required	41
Harmless error	44
Jurisdiction of supreme court on appeal	37
Motion for new trial not necessary	31
New evidence not to be introduced in supreme court.....	40, 41
Orders presumed to be just, reasonable and correct	
.....36, 37, 38, 39, 44, 45,	50
Orders requiring additional train service	12
Parties, Carriers	32
Parties not affected, dismissed	32
Presumption, on	25
Procedure	31
Remanding to Commission for additional evidence.....	18
Remanding to Corporation Commission for findings of fact...	41
Record on	36, 37
Supreme court jurisdiction	25
Supreme court sits as legislative body	37
Supersedeas	35
Suspension bond	35
Under anti-trust laws	226
What constitutes complete record	36
When dismissed	31
Appeals from orders—See Crossings, Highways and Railway.....	33
Authority to adjust controversy	23
Complaints, see Pleading and Practice, this heading.	
Contempt proceedings—Appeals	30
Burden of proof	24, 25
Carriers	25
Jurisdiction of supreme court	25
Keeping ticket window open, violation, penalty.....	25
Quasi Criminal	23
Railroad company	25
Regulation, evidence, see Carriers.	
Statutes—Penalty, discretion of Commission	26
Discrimination, see also Monopolies	73

INDEX TO ANNOTATIONS

CORPORATION COMMISSION—Cont'd.	Page
Express rates, see Carriers	40
Fees for transcripts	5
Findings of fact, conclusiveness	20
Franchises, power to change gas rates fixed by	153
Freight rates, see Railroads	40
Information, see Pleading and Practice, this heading.	
Interstate commerce, charges for storage of freight	12
Jurisdiction, see Powers and Duties, this title.	
Orders, applicable, see Carriers, Railroads, this heading.	
Conformity to pleading	12, 32
Effect of partial invalidity	32
See also Carriers, Railroads; see also each utility.	
Violation by carriers	25
Pleading and practice—Amendment of original complaint during trial	13
Appeal, see appeal, this title.	
Certificate of convenience and necessity, forms of application for	286
Certificate to record on appeal to supreme court	285
Challenge of order	21
Complaints, by whom presented	17
Continuance	12
Evidence admissible	19, 20
Form of pleading does not determine jurisdiction	15
Forms	279
Forms—Answer to contempt information	283
Application for certificate of convenience and necessity, telephone companies	286
Application for consent to lease or purchase railroad properties	288
Application for permission to exercise right of eminent domain, oil pipe line	288
Application for permission to exercise right of eminent domain—railroad company	287
Application for permission to install vacuum pumps	286
Application for supersedeas	284
Application for supersedeas in the supreme court	284
Application to certify facts and records to the supreme court	285
Application to increase rates or be relieved from service	286
Certificate to record on appeal to supreme court	285
Citation on information	282
Complaint	280
Against cotton gins	280
Against public utilities	280
Against railway company	280
Against telegraph or telephone company	280
Complaint general	280
Exceptions to order of Corporation Commission assessing line	283

INDEX TO ANNOTATIONS

	Page
Information—Alleging violation of oil and gas conservation order	281
Alleging violation of order, general.....	281
Notice of appeal to supreme court	283
Statements for domestic and foreign corporation.....	289
Subpoena	282
Harmless error	35, 44
Information—Amendment	281
By whom prosecuted	17
Must be verified	281
Verification, answering without moving to quash waives	281
Judicial notice, population of counties and cities	12
Jury trial not required	25
Motion for new trial not required	12, 286
New trial, motion not necessary	36
Notice essential	13
Notice, receivers, sufficiency	16
Order of Commission and not pleadings important	12
Procedure	17, 279
Informal	279
Regulation of telephone rates	41
Record, application to certify to supreme court	285
Supersedeas, application for	284
Powers and duties—Action for refund of excess charges, see Tele- graphs and Telephones, this heading.	
Adequate and reasonable facilities	14
Adequate facilities defined	16
Adequate crossings, street intersections	31
Carriers, see Carriers.	
Change of depot location	31
Changing name of station	14
Classes of corporations included	31
Commerce	32, 50
Corporation license law, exemptions, construction of statute..	169
Cotton compresses, rules for weighing cotton.....	167
Cotton gin, prior to utilities law	15
Crossings, see Railroads.	
Depots, see also railroads.	
Depot	14
Depot regulations, see Railroads	45
Dipping cattle, see Railroads	18
Establishment of highway crossings	118
Excessive charges, recovery—voluntary payment	23
Factors considered in prescribing rates	13
Flagman at crossings, see Railroads	17
Flagmen at street crossings	14
Flag station, see also railroads	14
Flag station—establishment and maintenance	12
Franchises, charges for public service	159
Franchise, power to change telephone rates prescribed by.....	162

INDEX TO ANNOTATIONS

CORPORATION COMMISSION—Powers and Duties—Cont'd.	Page
Free transportation to baggage agents, see Railroads.....	15
Gas Meters, laws of 1915 did not affect power to establish rates	154
Gas, regulation of charges under Sec. 18, Art. 9, constitution..	15
Highways and crossings	14
Industry spur, see Carriers, Railroads.	
Interstate commerce, interference with	12, 33
Interstate commerce	13
Interstate commerce, demurrage charges	109
Live stock—dipping cattle	15
Order held unreasonable, when	14
Orders calling for information	30
Oil and gas conservation order upheld by federal court.....	255
Oil and gas conservation law upheld by state supreme court..	231, 250
Passenger trains, see Carriers, Railroads.	
Pleading and practice, see Pleading and Practice, this heading.	
Power over public utilities	152
Power to make rules for common carrier	17
Powers to promulgate rates, legislative	13
Private facilities	13
Promulgation of orders governing storage supersedes legis- lative acts	12
Public supervision	31
Public utilities—Gas, power to fix charges for.....	153
Railroads, see also Carriers.	
Railroad crossing	33
Railroads, changing name of station, see Railroads	16
Railroads, free storage, interstate shipment	15
Railroads, order governing storage superseded legislative acts	12
Railroads, regulation	32
Railroads, rules governing operation supersede companies' rules	66
Railroads, Sunday train order, see Railroads	15
Reasonableness of order	17
Reasonableness of orders, express rates	40
Reasonableness of orders, freight rates	40
Reasonableness of orders, see Railroads, Telegraph service....	18
Reasonableness of orders, see Telegraph and Telephone	19
Reasonableness of order, Telegraph service in Railroad station	18
Reasonableness of orders, Telephone in depot	18
Relocation of stock pens	31
Reports of accidents	31
Requiring companies to give adequate service	154
Street railroads, see Carriers, Street Railroads	26
Transportation companies, see Carriers	32
Telegraphs and telephones, see also that title.	
Side tracks	13, 14
Side tracks, see Carriers, Railroads, this heading	49
Station facilities	13

INDEX TO ANNOTATIONS

	Page
Stopping interstate trains	14
Street crossings, see Railroads, Crossings.	
Street railroads—transfers, see Carriers, Street Railroads....	15
Switching charges, see Railroads	17
Switch, see Carriers, Railroads, this heading.	
Telegraph and telephone	144
Telegraph company	14
Telegraph office in railway station	14
Telegraphs and telephones, district courts not to compel in- junction pending hearing before Corporation Commission	21
Telegraphs and telephones, going concern, value	20
Telegraph and telephones, rates, reasonableness	20
Telegraphs, charges for delivery	20
Telephone line owned by individual	9, 13
Ticket windows	25
Union depots	48
Viaduct crossing	14
Writ of prohibition	31
Public service corporations, to maintain general offices in Oklahoma	56
Railroads, see also Carriers, Railroads, order appealable.....	33
Reasonableness of orders, prima facie presumption.....	35, 36, 37, 38, 39, 40, 41, 44,
.....	45
Rules, carriers, regulations	65
“Such public service facilities and conveniences as may be reason- able and just”	49
Supreme court, jurisdiction over orders	38
Telegraphs and telephones, see also Carriers of messages.	
Duty to enforce physical connection of telephone lines.....	144
Rates not to be increased without application to Commission..	146
Rules governing telegraph companies	146
Rules regulating electric wire crossings over railroads.....	149
Rules regulating transmission and delivering of telephone messages	146
Valuation, see Telephone	19
CORPORATION LICENSE LAW—Corporation Commission, construction of statute	169
Exemptions—Construction of statute	169
Gross receipts tax	169
Gross revenue tax	170
CORPORATIONS—Actions, see also Venue of Actions	206
Charter may be amended or annuled by legislature	176
Corporate existence	200
Corporate powers—Consolidation must be authorized by law.....	185
Corporate powers—Contract	185
Contract executed by president	191
Corporation may lease property	185
Directors—Dividing corporate property among themselves....	191
Express and implied	185
Liable on contracts	187

INDEX TO ANNOTATIONS

	Page
Power to increase capital stock	196
Sale of real estate	187
Stockholder may bring suit when corporation refuses	185
Title to assets	187
Unauthorized conveyance by corporation	183
Dissolution	197
Methods	197
Employees—Eight-hour law constitutional	215
Estoppel to deny existence of	182
Existence how shown	182
Foreign—Constitutionality of act requiring appointment of resident agent	207
Contracts construed	202
Doing business—Appointment of agent	201
Comity	201
Doing business—Presumption	201
Right to assail	201
Process, service of	203
Service made how	202
Service statutory	202
Venue of action	206
Issuance of stock	176
License law, see Corporation License Law.	
License tax—See Corporation License Law.	
Municipal	177
Street paving	177, 178
Powers—Public supervision, appeal	31
Presumption as to incorporation	182
Process—Officers return may be amended	207
Return must show, what	207
Service	207
Service by leaving copy with agent at depot	207
Service on secretary	207
Proof of corporate existence	182
Public and private classified and distinguished	177
Public—Municipal, street paving	178
Right to amend or repeal charter	177
Stock	176
Issuance of	176
Consideration for	176
Power of corporation to deal in	184
Property received for	176
Right of corporation to purchase its own shares	184
Shares personal property	183
Shares transferable	183
Subscription cannot be revoked, when	182
Transfer of	183, 185
Void in hands of innocent purchasers, when	176
Watered or fictitious	176

INDEX TO ANNOTATIONS

	Page
When void	176
Unincorporated voluntary association property	177
Watered or fictitious stock	176
COTTON—Compresses, weighing, rules of Corporation Commission	167
COTTON GIN COMPANY—Appeal	31
COTTON GINS—Accounting, reports prescribed by Corporation Commission	164
Bagging and ties—Rates prescribed by Corporation Commission	164
Rates—Prescribed by Corporation Commission	164
Rules prescribed by Corporation Commission	164, 165
See also Public Utilities.	
See Carriers, Railroads, Side Tracks, this heading.	
Side tracks for—See Carriers, Railroads, this heading.	
COUNTY COMMISSIONERS—Jurisdiction, street railroads, see Street railroads	15
COURTS—Jurisdiction of supreme court, action of Corporation Commission	25
CROSSINGS—Highways and railways, appeals, orders of Corporation Commission	33
See Carriers, Railroads	13
See also Railroads.	
Street intersections—See Corporation Commission	31
D	
DEMURRAGE—See Railroads.	
DEPOTS—Location, see Corporation Commission	31
DEPRECIATION—Necessity for maintaining sinking fund, telephone	20
DIPPING CATTLE—See Carriers, Railroads	15
DISCRIMINATION—See also Monopolies.	
See also Carriers, Railroads	49
Gas sold to public schools	152, 153
Municipal water plant	160
Order No. 246, Corporation Commission	53
Street railroads—Fares of school children	17
E	
EJECTION—See Carriers, Carriage of persons	66
ELECTRIC UTILITIES—See also public utilities.	
EMINENT DOMAIN—Form of application	287, 288
Private property for public use, see also Railroads	91
See also Oil and Gas, conservation	256
See also Railroads.	
State lands—In general	97, 98, 99
Municipalities	99
See also Railroads.	
Water power companies	99
EXCESSIVE CHARGES—See Corporation Commission	23
EXCLUSIVE AGENCIES—See also Monopolies	225
F	
FACILITIES—See Carriers, Railroads	49
Adequate defined	16
Telephone in depot as	18

INDEX TO ANNOTATIONS

	Page
FACILITY AND CONVENIENCE—Telephone in depot as	12
FARE—Amount to be printed on tickets	65
FENCING RAILROAD—See Carriers, Railroads.	
FLAG STATION—See Carriers, Railroads	12
FRANCHISES—Before statehood	159
Exclusive as against all persons attempting to exercise such right without legislative authority	162
Natural gas corporations	242
Not granted to individual	242
Property of	57
FRESH WATER—To be protected	258

G

GAS—See also Oil and Gas.	
Charges	153
Order of Corporation Commission, validity	153
Corporation Commission—Order requiring companies to give ade- quate service	154
Deposits for meter	154
Meters	153
Deposits for	154
• Laws for domestic gas consumers	153
Rates—Power of Corporation Commission under Sec. 18, Art. 9, Constitution	15
Statutes—Validity	153
GASOLINE—Inspection, see also Oils and Gasoline.	
GROSS RECEIPTS TAX—Cases on	169
GROSS REVENUE TAX—Cases on	170

H

HOUSE MOVING—Removal of wires on highways for house moving.....	150
---	-----

I

INDUSTRY SPUR— See Railroads	48, 49
See Railroads, this heading.	
INFORMATION, ORDERS CALLING FOR—See Corporation Commission.	
INFORMATION—See Corporation Commission, Pleading and Practice.	
INJURIES TO PASSENGERS—Freight train, see Carriers, Railroads, this heading.	
INTERSTATE COMMERCE—Commission's orders void, when	12
Interference with by state regulations, see Railroads.....	15
Overcharges	53
Regulation—Order of Corporation Commission	32
“INTERSTATE PASSENGER”—See Carriers, Railroads, this heading.	
INTERSTATE COMMERCE—State regulation	13

J

JURY—Proceeding before Corporation Commission, jury trial	23
---	----

L

LIVE STOCK—Dipping cattle, see Carriers, Railroads.....	15
Shipment—Injury, notice, see Carriers, Railroads, this heading.	

INDEX TO ANNOTATIONS

Page

LOSS AND DAMAGE—Notice required by contract, see Carriers, Railroads.

M

MONOPOLIES—Combination to control prices in particular locality.....	225
Corporation Commission—Anti-trust laws, jurisdiction	226
Jurisdiction of Commission under anti-trust laws	226
Reasonableness of orders—Fixing price for ginning cotton.....	226
Discrimination	220
Donation to state institution	220
Municipal water plant—Donation to state institution.....	220
Equality of rates	220
Purchase of commodities, when purchaser not liable for.....	220
Validity of contract giving exclusive right to handle goods in locality	225
MUNICIPAL CORPORATIONS—Franchises, natural gas	242
Not granted to individuals	242
MUNICIPALITIES—Eminent domain, state lands	99
MUNICIPAL CORPORATIONS—	
Franchises, exclusive grant	159
Granted before statehood	159
Power to fix telephone rates	162
Power to grant	162
Regulation of charges for public services not rendered by state	159
Street railways, exclusive	158
Municipal Corporations—Administrative functions, operations of	
water plant	160
Municipal water plant—Discrimination	160
Donation to state institution	160
Equality of rates	160
Power to make improvements	160
Right to engage in enterprise	160
Power to grant franchise—See Cities and Towns, see Carriers, Street	
Railways, this heading.	

N

NATURAL GAS—See Gas.

NEGLIGENCE—See Carriers

O

OIL AND GAS—

Conservation—Gas to be metered	256
Notice of intention to drill, deepen or plug	256
Plugging dry and abandoned wells	256
Power to prevent waste	236
Conservation law—Upheld by state supreme court	231, 250
Conservation rules—Upheld by federal court	255
Conservation rules	255- 259
Abandoned wells to be protected	256
Additional will be prescribed from time to time	259
Anchorage to be laid	257

INDEX TO ANNOTATIONS

OIL AND GAS—Conservation Rules—Cont'd.	Page
Approved methods of preventing waste to be used	256
Bureau of mines—Conservation agents to co-operate with....	259
Commercial quantities defined	255
Commission shall regulate the taking of natural gas	256
Common purchaser—discrimination prevented	256
Common purchaser rule	255
Conservation agents to assist in enforcement of rules.....	259
Conservation agents to co-operate with oil and gas inspectors of the department of the interior	259
Conservation agents to have access to all wells and all well records	259
Conservation laws and rules of the Corporation Commission to be complied with before connecting wells with pipe lines	259
Drilling records to be kept at wells	259
Eminent domain—Acceptance of law, prerequisite to	256
Duties of conservation officers	256
Equipment for conserving natural gas shall be provided be- fore drilling in	257
Fresh water to be protected	258
Gas to be confined	255
Gas to be metered	256
Gas to be separated from oil	258
Gas to be taken ratably	255
Gas wells not to produce from different sands at same time through the same string of casing	258
Gauge to be taken—Reports to Commission	258
Log and plugged record to be filed with Commission	257
Mud-laden fluid to be applied	257
Mud-laden fluid to be applied in pulling or redeeming casing..	257
Mud-laden fluid—When to be applied to completed wells.....	257
Mud-laden fluid, where well containing water is drilled into oil or gas producing strata, density of	257
Notice to contractors, drillers and others to observe rules....	259
Notification of fires and breaks or leaks in lines	258
Plugging dry and abandoned wells—Manner of plugging.....	256
Plugging dry and abandoned wells—Must be plugged under supervision of conservation agent	256
Plugging dry and abandoned wells, notice of intention to plug	256
Plugging record to be filed	257
Prescribing conditions under which pipe line companies may connect with oil or gas wells	259
Production to be restricted to 25 percent of potential capacity	258
Proper anchorage to be laid	257
Reports from pipe line companies	258
Reports to be made to Corporation Commission	258
Separate slush pit to be constructed	257
Separating device, to be installed, on order of Commission ...	258
Shooting wells	258
Not to be shot into salt water	258

INDEX TO ANNOTATIONS

	Page
Damaged wells to be abandoned	258
Strata to be protected	255
Strata to be sealed off	257
Vacuum pumps not to be installed except upon application to Commission	258
Waste defined	255
Waste prohibited	255
Wells not to be permitted to produce oil and gas from dif- ferent strata	257
Corporation Commission—Conservation laws, validity of upheld by federal court	255
Conservation order upheld by federal court	255
Gas—Conservation, see conservation rules this title	255-259
Gross production tax, power of state to collect	274
Lease—Cancellation	278
Lease—Cash bonus	278
Construction	277, 278
Construction—Federal courts, following state court decisions ..	278
Forfeiture	278
Rights of lessee	278
Oil—Conservation—Earthen storage prohibited	238
Healdton field	238
Oil prorated	238
Steel storage permitted, when	238
Wells to be gauged	238
OILS AND GASOLINE—Inspection, inspectors, civilly liable for work per- formed by them	261
Subject to removal	261
OIL PIPE LINES—Eminent domain, state lands	99
OILS—Inspection, see Oils and Gasoline.	
“OTHER INDUSTRY”—See Terms, Cotton Gins	50
OVERCHARGES—See Interstate Commerce.	

P

PASSENGER SERVICE—See Carriers, Railroads	12
PERSONAL PROPERTY—Delivery to Carriers, see Carriers, this heading.	
PLEADING AND PRACTICE—See Corporation Commission, that title.	
PLEADING AND PRACTICE—Forms, see Corporation Commission, this title	279
PRIMA FACIE—Defined	35
PROCEDURE—Appeal from orders, see Corporaion Commission, this heading.	
PUBLIC CORPORATIONS—Subdivisions of a city are not legal entities ..	178
PUBLIC FACILITIES—Union depot as	48
PUBLIC HIGHWAYS—See Carriers, Railroads, this heading.	
PUBLIC SERVICE CORPORATIONS—General offices in Oklahoma, see Corporation Commission, this heading.	
To maintain general offices in state, Commissions order	56
To charge published rates and give exact change, Commission's order ..	60

INDEX TO ANNOTATIONS

	Page
PUBLIC SERVICE—Dipping cattle as, see Railroads	18
PUBLIC SERVICE FACILITIES AND CONVENIENCES—Term defined..	13
PUBLIC UTILITIES—Corporation Commission, jurisdiction	152
Electric—Leasing river beds of state for power, etc.....	275
Highways—House moving	157
Removal of wires	157
See also Cotton Gins.	

R

RAILROADS—See Carriers, this title.	
RATES—See Carriers, etc., valuation as factor in determining, see tele- phones	19
REAL ESTATE—See also Corporations.	
Corporations, sale of realty	187
RECEIVERS—Notice, see Corporation Commission, Pleading and Practice	16

S

SEPARATE COACHES—See Carriers, Railroads.	
SIDE TRACK—See Industry Spur, Railroads.	
STATUTES—Local or special law, Corporation Commission—authority to adjust controversy	23
STOCK PENS, RELOCATION OF—See Corporation Commission, this title.	
STOPPING OF INTERSTATE TRAINS—See Carriers, Railroads.....	15
STORAGE—See Railroads.	
STREET RAILWAYS—See also Carriers, this title.	
Rates, school children	14
SWITCHES—Location, see Carriers, Railroads, this heading.	
SWITCHING CHARGES—See Railroads.	
SUPERSEDEAS—Right to, see Corporation Commission, appeal.....	35
SUPREME COURT JURISDICTION—Corporation Commission, appeals...	33

T

TELEGRAPH—See Telegraphs and Telephones.	
TELEGRAPHS AND TELEPHONES—See Carriers of Messages.	
TELEPHONES—See Telegraphs and Telephones.	
TERMS "Other Industry", cotton gin included	50
TICKETS—Validity, see order Corporation Commission.	
TICKET WINDOWS—See Carriers, Railroads	25
TRANSMISSION COMPANY—Applies to telephone line owned by indi- vidual	9
Telephone line owned by individual	13
TRANSPORTATION COMPANY—Special shipping contract, limitation of liability	61

V

VACUUM PUMPS—Form of application	286
See Oil and Gas, conservation rules	258
VALUATION—See Telephones	19

INDEX TO ANNOTATIONS

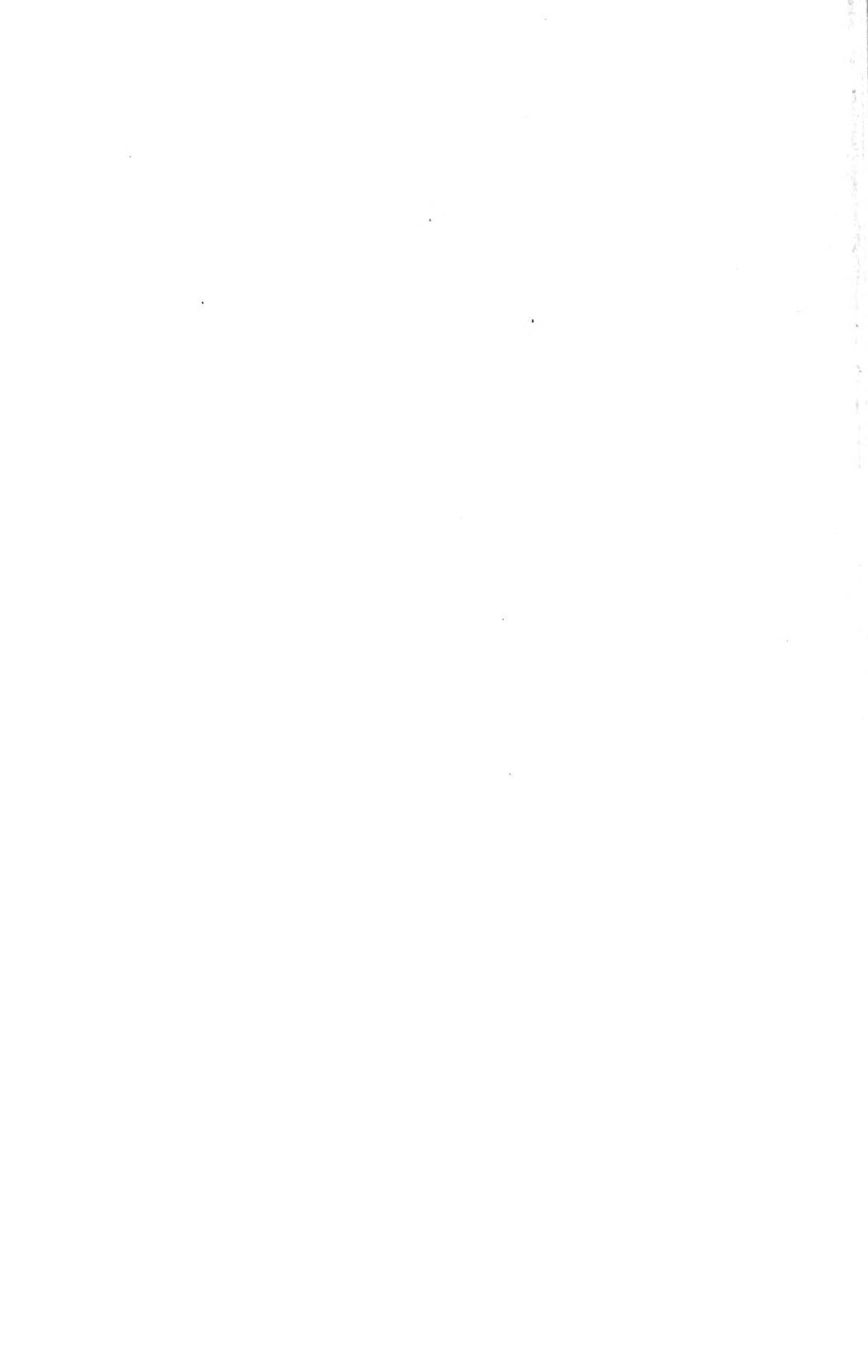
W

	Page
WATER POWER COMPANIES—Eminent Domain, state lands	99
WIRE CROSSINGS—Rules of Corporation Commission, regulation over Railroads	149
WRIT OF PROHIBITION—See Corporation Commission	31









This book is DUE on the last date stamped below

|

|

UC SOUTHERN REGIONAL LIBRARY FACILITY



AA 000 894 086 8

